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J. J. FRAWLEY

The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta SEPTEMBER 18th, 1939

VOLUME 116

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MR. FRAWLEY: Mr. Chairman, we are ready to proceed this morning with some matters which were left unfinished when the Commission adjourned on the 4th of August.

I anticipate that we will not take more than two weeks, perhaps not all of two weeks to conclude those matters and then there will need to be a short adjournment because my instructions are that Dr. Frey cannot come to attend the final,-which I hope will be the final session of the Commission until about the 16th of October. That is the tentative date which has been fixed but I am ready this morning to go on with the completion of these further matters and I propose to call Mr. Cottle to make a statement with respect to what in fact transpired in the Conservation Board since we last met. Of course there have been very many serious changes in the economics of the country and it may be that something should be said about that.

THE CHAIRMAN: Well we, as a Board, are not unmindful of the serious effects that the war in which our Empire is engaged may have upon the oil industry in some, and perhaps indeed all, of its branches.

We think perhaps it is right to say that upon war being declared we invited Counsel for the Commission to inquire from the Government of the day whether or not it was desired that the Commission should continue at all. It was thought wise that the work of the Commission thus far should not be

abandoned but rather that we should proceed with a view to making a report as of say the first of September of this year. Now we are of course content to do that but at the same time we feel that everything should be done that may be done by all interested parties to expedite the work of the Commission and to bring it to an end as speedily as may be.

MR. FRAWLEY: Mr. Cottle.

FREDERICK G. COTTLE, having been recalled, examined by Mr. Frawley said:

Q Mr. Cottle, you are still under oath?

A Yes.

Q You are a member of the Institute of Chartered Accountants of the Province of Alberta?

A Yes.

Q And you are a member of the Conservation Board?

A Yes.

Q Of what is called the Petroleum and Natural Gas Conservation Board?

A That is right.

Q Under what Statute is your Board set up and functioning?

A The Oil and Gas Resources Conservation Act, 1938.

Q Being Chapter 1?

A Chapter 1 of the second session of 1938.

MR. FRAWLEY: Mr. Chairman, sometime ago I gave to both yourself and Mr. Commissioner Lipsett copies of that Statute. You may not have them before you now.

THE CHAIRMAN: We have them but we have not got them here.

MR. SMITH: Mr. Chairman, I intervene to

say that I am appearing for the Conservation Board and for the witness.

(Mr. A. L. Smith, K.C.).

Q MR. FRAWLEY: Now Mr. Cottle, by the way just let us put on the record, there was a Statute, the Oil and Gas Conservation Act, 1938, Chapter 15 of 1938?

A Yes.

Q And under that Statute, the Board functioned for a time under that Statute, is that right?

A That is right.

Q But that Statute has now been repealed by the Statute to which you have just now referred?

A That is right.

Q Now Mr. Cottle, some question has been raised in the Commission which seems to make it desirable that the Commission should know what in point of fact the Conservation Board does when it functions as a Conservation Board and issues production orders, allowables, as they are called in the Turner Valley field. Now would you be good enough to make a statement as to what the Conservation Board does in fact do in the exercise of its duties under this Statute?

A I will be very glad to. I have prepared what I have to say in the form of a memorandum which I have in front of me. I made some last minute alterations and corrections in the memorandum and I propose when I am finished to have what I say put in proper form. In the meantime I can distribute copies of what I am going to read.

MR. FRAWLEY: If you would.

Q THE CHAIRMAN: Well now this memorandum does contain your last minute changes?

A Yes.

Q The changes which you have just referred to?

A Yes, they are just changes in rough and I prefer to file them later.

Q MR. FRAWLEY: When you speak of filing something, you mean a clean copy of what you have just handed in?

A Oh yes.

Q THE CHAIRMAN: But this is final in form?

A Yes.

Q All right. Now are you filing that, Mr. Frawley?

MR. FRAWLEY: I presume that may as well be filed, Mr. Smith.

MR. SMITH: All right.

(SUBMISSION BY MR. COTTLE PRODUCED AND MARKED AS EXHIBIT "691")

Q MR. FRAWLEY: Very well, Mr. Cottle?

A Memorandum for submission to the McGillivrary Commission.

Commission Counsel has asked me to appear before this Commission for the purpose of explaining the procedure of The Petroleum and Natural Gas Conservation Board in pro rating the oil wells in the Turner Valley Field and to discuss any other matters relating to the Board which may be of interest to the commission.

The Petroleum and Natural Gas Conservation Board was constituted and functions pursuant to the provisions of The Oil and Gas Resources

Conservation Act.

The copies have been given to you.

Q MR. FRAWLEY: You had better let me have a copy because I gave my copies to the Commission?

(Witness hands copy of Conservation Act to Mr. Frawley).

MR. FRAWLEY: Thank you.

WITNESS: Do you wish a copy filed as an Exhibit?

MR. FRAWLEY: Oh I think not.

A The purpose of the Act is set out in Section 3 which reads as follows:

"3. The intent, purpose and object of this Act "is to effect the conservation of oil resources "and gas resources or both in the Province by "the control or regulation of the production of "oil or gas or both, whether by restriction or "prohibition and whether generally or with "respect to any specified area or any specified "well or wells or by repressuring of any oil "field, gas field or oil gas field and, inci- "dentally thereto, providing for the compulsory "purchase of any well or wells."

To this end the Board has been given the power set out in Subsection 1 of section 16 of the Act which reads as follows:

"16.--(1) In order to effect the intent, pur- "pose and object of this Act, the Board is here- "by authorized and empowered with the approval "of the Lieutenant Governor in Council to con-

"trol and regulate the production of petroleum "either by restriction or prohibition or both, "or to repressure any oil field, gas field or "oil gas field and, incidentally thereto, to "provide for the compulsory purchase of any "well or wells, and for such purposes to make "such orders and regulations as the Board "deems requisite."

The Board is also charged under Section 22 with the duty of enforcing regulations made pursuant to The Oil and Gas Wells Act, 1931 and for your information I offer as an Exhibit a copy of these regulations.

(COPY OF REGULATIONS PRODUCED BY THE WITNESS COTTLE HERE MARKED AS EXHIBIT "592")

WITNESS: The primary objective of the Conservation Board is to regulate the production of individual oil wells in such a manner as to ensure a reasonably efficient operation of the field. Reasonable efficiency in this field cannot be obtained if wells are permitted to produce at open-flow capacity. Hence, restriction of production is an essential part of the conservation scheme.

The extent of restriction of production, however, need not necessarily be determined only by efficient rates of production as, in the opinion of the Board, the Turner Valley Field is capable of producing efficiently more oil than is required by the present market. The total amount of oil which the Conservation Board permits the field to produce is presently

determined, therefore, as the maximum amount of oil which can be disposed of in the market.

The Board has no intention of restricting or controlling the market in any way whatsoever and accordingly, the only interest the Board has in the market is to forecast the amount of production which refiners are going to require from the field.

If, in the Board's opinion, the amount of the total requirement proved to be more than the field could produce with reasonable efficiency the Board would, of course, restrict the total production of the field below the amount of the requirement. As I have said, however, the requirement to date has never been sufficient to cause the Board to curtail production below it. Accordingly the amount of oil which the Board, from time to time has permitted the field to produce has been determined as the amount of oil which could reasonably be expected to be required by the persons taking delivery of the production.

It has been said that the Board is pro rating to markets, implying that one of the functions the Board has assumed is that of controlling or in some way interfering with the market. Such an implication is an improper one as the Board has never attempted at any time to affect the volume of the market or to bring any forces to bear on the field price of crude. It may be said that the Board is pro rating to markets but the only significance in such a statement is that the Board has permitted the field to produce

as much oil as the market requires and has in no way interfered with a healthy relationship between supply and demand.

The Board has never lost sight of the fact that its chief and only power has been to conserve. It is inevitable, however, that production will be marketed. But it is also apparent that the effect which any action of the Board may have on markets is indirect and at most incidental to its main objective.

The object of the Board in issuing a pro ration order is not so much to determine the total amount of oil which the field may produce but rather to see that each well in the field produces a proper proportion of the total so as to insure efficient production and to maintain equity. Efficient production, as far as the field as a whole is concerned, requires rateable withdrawals from the field having in mind the characteristics of each well in relation to all other wells in the field. The procedure which I shall explain, then, has to do with the method by which the Board determines the daily allowable of each well in relation to the total allowable for the field.

Before preparing a pro ration schedule, the Board determines, in respect of each well in the field, its assigned acreage, its gas/oil ratio, its capacity to flow and its bottom hole pressure. Each of these factors has, in the opinion of the Board, a very real bearing on the relative position of each well in the reservoir. The Board will not assign more than forty (40) acres to any one well and in case a well is drilled on less than forty (40) acres will not assign more than the acreage controlled by the operator. The gas/oil ratio is determined and revised from time to time from records of actual production which the Board obtains in the field or keeps in its office. The capacity to flow and bottom hole pressure are determined by actual tests conducted by the Field Staff maintained by the Board.

Having determined the above factors in respect of each well the Board then proceeds to compute the allowable of each well in the following manner:

1. Having determined the total daily production of the field to be prorated to the wells it is divided into four equal parts. The first part is apportioned to each well in the proportion that the assigned acreage of each well bears to the total assigned acreage in the field. The second part is apportioned to each well in the proportion that the bottom-hole pressure of each well bears to the sum of the bottom-hole pressures of all wells. The third part is apportioned to each well in the proportion that the tested rate of flow of each well bears to the sum of the tested rates of flow of all wells. The fourth part is apportioned to each well in the proportion that the

reciprocal of each well's gas/oil ratio bears to the sum of the reciprocals of the gas/oil ratios of all wells.

I may interject there that the term "reciprocal" is used to indicate that the Board gives weight in the inverse proportion of the gas/oil ratio, so that a well with a large gas/oil ratio receives a relatively smaller allowable than a well with a low gas/oil ratio.

Adding the four apportionments described above, we arrive at what is termed the initial sharing position of each well. The sum of the sharing positions equals the total allowable production of the field.

2. All wells are then divided into two groups, the first group comprising those wells having gas/oil ratios less than 3,000 cubic feet per barrel; the other group comprising those wells having gas/oil ratios in excess of 3,000 cubic feet per barrel. (Wells with gas/oil ratios in excess of 31,000 cubic feet are classed as gas wells and are not involved in these calculations.) If the Board allowed those wells with excessive gas/oil ratios to produce at the rates indicated by their initial sharing positions, there would be excessive volumetric withdrawal from those wells. Accordingly, the Board sets a maximum withdrawal of gas for each well in the second group equivalent to the amount of gas which the well in the first group with the largest sharing position would produce if its gas/oil ratio were 3,000 cubic feet per barrel and it were produced at its initial sharing position. For example if the largest sharing position of any well in the first group were 500 barrels, the maximum

gas displacement would be computed as 1,500,000 cubic feet.

The Board then divides the gas/oil ratio of each well in the second group into the maximum gas displacement (1,500,000 cubic feet in the above illustration) in order to determine the maximum oil displacement allowable of such wells. The sharing position of any well, the displacement allowable of which is less than its sharing position, is then reduced to the displacement allowable.

3. A number of wells, due to their individual characteristics, are unable to produce efficiently their sharing positions ascertained under paragraphs one or two described above. The sharing positions of such wells are reduced to the amount which the Board considers proper in each case.

4. The sum of the total reductions in initial sharing positions made as described under paragraphs two and three above are then added to the initial sharing positions of those wells with gas/oil ratios less than 3,000 cubic feet per barrel in proportion to the sharing position of each of such wells.

The sharing positions revised as described above then become the allowables of each well.

Subsequent to the issuance of a proration schedule in the manner described above, a new well may be brought into production. As soon as may be after completion of the well, tests are made to determine bottom-hole pressure, gas/oil ratio and rate of flow. The Board then makes a computation to determine as nearly as possible what the allowable of

the new well would be if it were included in the last proration schedule. The well is then given a temporary allowable based on such a calculation. When subsequent schedules are prepared, however, all such wells are included.

It should be borne in mind that the procedure described above, although followed by the Board at the present time, is subject to change at any time and in any manner deemed proper by the Board.

THE CHAIRMAN: May I interrupt to ask you, how often do you make out these new schedules; according to the number of wells that come in or what is your test?

A There is no fixed time limit, Mr. Chairman, but in the past the requirement for oil has changed with sufficient frequency that in our judgment we very seldom had to revise the schedule to take care of changing characteristics. If there were a static requirement and there were no new wells coming in to production, I presume we would desire to change the schedules about every thirty days or thereabouts. But we have not had to consider that in the past because other conditions beyond our control have caused us to change our schedule with sufficient frequency to take care of changing characteristics.

Q The coming in of new wells alone would affect your schedule you consider?

A Yes, because the coming in of new wells and granting additional allowables would, of course, upset the relationship between the requirement and the total production.

Q How frequently have you been making schedules?

A Some as frequently as a week apart on some occasions. We would like to see a schedule stay in effect a month, however.

Q MR. COMMISSIONER LIPSETT: When you give a temporary allowable,

Mr. Cottle, does that mean that the daily allowable production is increased that much or do you take that percentage off every other well?

A No, temporarily the total field production is increased that much and then we take care of it on the next schedule. As historical data is accumulated concerning the characteristics of the wells and the conditon of the reservoir it is inevitable that the Board will revise its proration formula or at least change the relative weight given to the various factors used. It should also be borne in mind that the application of the formula does not result in static allowables as there is a constant change in the various characteristics of the various wells. Accordingly it is essential that new schedules be computed with reasonable frequency, even though there need be no change in the total allowable production of the field. In this way it is possible to keep the production of each well in proper relationship to the whole field in the light of changing characteristics.

Evidence has been given before this Commission having to do with the Board's policy concerning storage and the levelling of production rates to avoid excessive production in the summer and too little production in the winter.

If it were possible to maintain an even rate of production throughout the year there is no doubt but that greater production efficiency could be attained. Hence the Board is not opposed to, but rather encourages the accumulation of storage stocks during slack seasons so as to avoid excessive production during peak seasons. The Board, however, is not in the business of

purchasing and storing oil and the maintenance of a uniform rate of production can only be achieved by those persons who are willing to store oil. Refiners and purchasers of oil store considerable quantities at all times. The fluctuations in seasonable domand in this country are so great, however, that the persons storing oil are unable to carry sufficient stocks to maintain a uniform rate of production through all seasons. Indeed this procedure would require such a heavy investment in storage tanks that it is doubtful, in my mind, if the additional cost involved would be justified by the increased efficiency obtained in the field. Nevertheless the Board encourages reasonable stocks of oil being accumulated prior to peak demand periods and some success has been achieved in this direction.

The concrete proposal suggested to this Commission in evidence, however, was that an individual producer whose well, during the low production period, was producing at less than a rate of maximum efficiency, - at that point I should say by rate of maximum efficiency I mean the maximum rate at which efficient production can be obtained, - should be permitted to produce his well up to the maximum efficient rate and store the excess production above ground. Quite apart from the virtue there may be in storing oil above ground or the inadvisability of a well being restricted below its maximum efficient rate of production, the Board could not permit this procedure or any other which would involve the production of any well at a rate greater than its allowable. Obviously, in an administration of this kind, the Board must treat all persons alike and, having determined a well's proportion of

total production, it could not allow that well to produce more than that proportion. For this reason the Board makes no distinction either between the owner of an oil well who is also a refiner and the owner of a well who is not, or between the owner of a well who sells his production under contract and one who sells to all comers. In short the owner of a well, the allowable of which is one hundred barrels per day, is permitted to produce only one hundred barrels per day and as far as the Board is concerned he may do with his product as he pleases whether he intends to store it, refine it or sell it.

The result of this policy is that, subject always to the possibility of the total requirement at any time exceeding the efficient production rate of the entire field, the Board permits the field to produce as much oil as there is any requirement for and each well in the field is permitted to produce its full share of the total production.

Some point was made in evidence before the Commission of the fact that, on the Board's Schedules of May 13th and 19th last, several wells were given allowables in excess of the capacity of those wells to produce. This procedure was criticized and presumably was cited as an indication of some fault in the Board's method of pro-ration.

At the time this criticism was made the production of the field was rapidly being increased to take care of increasing requirements for oil. A schedule had been issued on April 1st, 1939, providing for the production of 17,500 barrels per day. This was superseded

by a further schedule on April 28th, 1939, providing for 19,500 barrels per day. Then on May 13th, 1939 the total field allowable was increased to 22,500 barrels per day followed by a further schedule on May 19th, totalling 25,000 barrels per day. The latter schedule remained in effect until June 13th, 1939, when a schedule was issued providing for 27,000 barrels per day.

You will see that the total field production was increased from 17,500 barrels per day to 25,000 barrels per day in a period of three weeks. Needless to say this rapid increase in rates of flow resulted in changes in the relative characteristics of individual wells and accordingly a series of schedules would be necessary to give full effect, in the relative allowables of each well, to such changes.

In my explanation of the application of the pro-ration formula I stated that a number of wells, due to their individual characteristics, are unable to produce efficiently their sharing positions ascertained by the application of the formula. Obviously a substantial increase in the allowables of all wells could be expected to result in a number of the smaller wells reaching the point where they could not efficiently or even inefficiently produce the increased allowable. The point of maximum production of such wells, however, can be ascertained only by trial and error and accordingly the Board expected a number of wells to be unable to produce the amount of the allowable given to them in its schedule of May 13th.

In this connection it should be said, however, that the Board does not attempt to curtail

unduly a number of what may be classed as minimum wells, and in a few instances is willing that the operator produce a minimum well, subject only to the good judgment of the operator. This is true, however, only in respect of the smaller wells which, as far as the reservoir as a whole is concerned, are unable to create sufficient waste to justify the curtailment of their production. If such wells are produced in excess of a reasonably efficient rate, the characteristics of the well will be affected, with the result that the maximum displacement feature of the formula will come into operation and result in a restricted allowable.

THE CHAIRMAN: I do not understand that. You say in the case of small wells you do not greatly concern yourself about them. Are not they using up propulsive energy just the same as a bigger well?

A Yes, they are, to a lesser extent, of course.

Q Aren't they taking that out of the field?

A Yes, that comes out of the reservoir but the amount of both gas and oil which comes out of that particular well is much smaller in relation to his acreage in the reservoir that it could hardly be said he is drawing from a neighbouring well. Unless, of course, he is withdrawing a very substantial amount of gas.

Q But that is just the point?

A If he is doing that the displacement feature of the formula would restrict that. There are some wells incapable of producing much oil or much gas.

Q You could not restrict that unless you are feeding them with something apart. A small well might travel along just as he likes?

A If he is sufficiently small to travel along as he likes, we

would let him. If his well is inefficient, however, the displacement feature of the formula operates against that. For instance, in the examples I gave, where the largest sharing position is 500 barrels, the maximum displacement gas allowable would be 1½ million cubic feet of gas. But supposing the oil/gas ratio were just under being a gas well, namely, say 31,000 feet per barrel, such well would only be permitted to produce 50 barrels of oil regardless of any other consideration because you divide the gas/oil ratio of 30,000 into 1½ million feet of gas and the result is a production of 50 barrels. That well is curtailed according to displacement.

Q It is if your formula is applied to it at all?

A It is. The formula is applied to all wells under production under clause 3.

Q I do not want to delay you, but I am just concerned with one statement here. "In this connection it should be said, however, that the Board does not attempt to curtail unduly a number of what may be classed as minimum wells, and in a few instances is willing that the operator produce a minimum well, subject only to the good judgment of the operator."

A As an example, take what I have just said.

Q If that is so, you are not applying any formula to them, oil displacement, gas/oil ratio or anything else. What I want to know is while I can quite understand the amount of oil he produces may have no serious effect is he wasting propulsive energy that other people require to get this small amount of oil without your having or taking supervision over him?

A If he produces more than the displacement allowable of gas, I would say he is wasting energy. But take the example I gave

where the restrictive feature of the formula on displacement reduces the well's sharing position to 50 barrels per day, that well might be unable to produce more than 20 barrels a day, in which case we allow him to produce the 20 barrels per day. That is why I say that we are willing for certain small wells to produce as much as they desire, subject to the good judgment of the operator. But if the good judgment of the operator results in that well taking more gas than he should from the reservoir he is restricted. Now, supposing the gas-oil ratio were 60,000 instead of 30,000, the maximum allowable would be 100 barrels per day and it might be that that well could not produce more than 80 barrels per day, in which case we do not restrict him. But if he desires to produce 105 barrels per day, that is a different matter. Then he is violating the result we arrive at through the application of the formula. The formula is applied in every case. In no instance do we allow a well, whether it be small or large, to produce more than the sharing position.

Hence, it is possible, on a schedule providing for substantially increased production, that the Board would be willing that a particularly small well be allowed to produce more oil than the operator finds it able to produce. The Board makes reasonable allowances for such contingencies, however, in arriving at the total amount of allowable production so as to insure that sufficient oil is produced to meet requirements.

It was also said in evidence that the field was found unable to produce the amount of oil provided for on its schedules of May 13th and May 19th and that the giving of excessive allowables to wells

unable to produce them was responsible for this predicament. I analyzed the daily field production during this period, however, and found that there was no truth in this suggestion.

My analysis showed conclusively that on very few days was the total production any less than the total allowable provided by the Board's schedules. Accordingly the effect of wells being unable to produce their allowables was practically negligible and, if people at that time were unable to obtain supplies of oil, the fault was neither in the Board's schedules nor in the capacities of the individual wells.

(Page 13,036 follows.)

Q MR. FRAWLEY: That is all you have to say about this, Mr. Cottle?

A That is all.

MR. NOLAN: I think, Mr. Chairman, Mr. Cottle can assist us by explaining the machinery in respect of the nominations. My memory is that there was certain evidence given here that nominations were made to the Board and that even although they nominated for a certain amount of oil and even although these people's nominations comprised total market requirements, some companies did not get the amount of their nomination and there is a machinery, I take it, back of what Mr. Cottle has explained to us this morning, which might be of interest to the Commission.

Q MR. FRAWLEY: Yes, will you do that?

A Well I believe there is some misunderstanding about the word "nomination". What we attempt to do is find out in advance, as we must of course, how much oil is going to be required from the field. For this purpose we contact every person that we have any reason to anticipate will require oil and where it is difficult to approach refineries, say in Saskatchewan, we find out in the best manner possible from the people supplying the refineries in Saskatchewan how much oil is going to be required for the purpose. Now we are interested only in the total amount of oil that is going to be required and having determined that we set our allowables accordingly. We do not attempt to see that each refinery actually obtains the amount of oil that he says he is going to require. That is up to him. We are not buying oil for anyone nor are we selling oil to anyone. Now that is all that can be said about nominations because that is all we do.

Q MR. NOLAN: Then, as I understand you Mr. Cottle, your interest lies only in the total amount of oil to be required by the industry?

A That is right.

Q Then you see that the allowable is set accordingly?

A That is right.

Q So that the sum of the nominations, if I may call them that, would be the allowable?

A That is right.

Q Well then, how would it arise that somebody would not get the amount of oil for which they had nominated if the field is always able to produce its market requirements and I understand it is?

A Well a person who requires oil and has not his own wells, can only obtain oil, of course, by buying it from someone who has it and I can quite readily imagine that there may be difficulty in the negotiations between the refiner and the person who has production; that being a possibility, of course there is also the possibility that the refiner would not be in a position to get his oil because we cannot interfere with arrangements between purchasers and sellers of oil and indeed we do not attempt to interfere with them; for instance if Mr. Plotkins requires more oil than he has contracted for with the well that he has a contract with, he must necessarily buy his oil from someone who has it.

Q MR. FRAWLEY: And that is no concern of yours?

A That is no concern of the Board at all.

Q MR. MACLEOD: It is of consequence, Mr. Cottle, that if one nominator or intending purchaser takes one and a half times the quantities nominated for and everybody else wants the quantity they nominated, somebody goes short, is

that it?

A That is always a possibility but we do not even attempt to see that the people who tell us they are going to require so many barrels a day actually take it; we know from our records after it happens, we know they did take it and often for that reason we have gauged the total field production based on what we think may happen. We do not feel bound by the so-called "nominations" entirely. We exercise our own good judgment in dealing with it.

MR. MAHAFFY: May I ask a question just on this particular point, Mr. Chairman?

THE CHAIRMAN: Certainly.

Q MR. MAHAFFY: I take it from what you said, Mr. Cottle, that your whole concern in fixing the allowables of the field is what the market will absorb?

A At the present time that is the controlling factor for the reason that I stated, that is that the field is presently capable of producing with efficiency more oil than the market will absorb.

Q Yes, I appreciate that, but the whole object, subject to that qualification, is that the market shall be supplied from this field?

A Yes, and the further purpose in pro-rating to that figure is to see to it that each well produces only its proper proportion of the total production which is going to be produced.

Q That is right.

THE CHAIRMAN: As I understand the Witness, if the market demand was so great that it precluded efficient production to meet the demand, the demand would not be met pursuant to the permission of the Board?

MR. MAHAFFY: Yes, that is as I appreciate it.

Q MR. SMITH: That is right?

A That is right.

MR. MAHAFFY: Yes, and putting it another way, he says they have never reached that far.

THE CHAIRMAN: Quite so.

WITNESS: Yes.

Q MR. MAHAFFY: Then, Mr. Cottle, I take it that during these periods when the total market requirement is low, that wells are producing at a figure much less than would be still an efficient production figure?

A Will you repeat that, Mr. Mahaffy?

Q Perhaps if I take an example, supposing the "A" Well in your opinion could efficiently produce 200 barrels a day; there are periods during the year when that well is probably only allowed to produce 100 barrels a day?

A Yes, or even 50, yes, that follows naturally because the fact that the field can produce efficiently more oil than is now being produced it follows that a number of the wells or all of the wells may be producing much less than the maximum rate at which they could produce efficiently.

Q Yes, then it also follows that as closely as you can figure it, the field is only allowed to produce the total market requirements?

A Well not as closely as we can figure it. I mean there is not a very definite relationship; for instance it would not matter very much if we allowed the field to produce temporarily 500 or 1000 or even 2000 barrels more than the requirements, or if with a lot of storage, if we allowed it to produce 5000 or 2000 barrels less than the requirements, so the words "As closely as possible" is not applicable.

Q Shall I say "approximately"?

A Yes, that would be proper.

Q And now then is it not also true, as you mentioned a moment ago, that you are not concerned with the individual requirements of the market?

A Only as an indication of what the total requirements will be.

Q Only as they make up the totals?

A Yes.

Q And if one particular refiner secures the bulk of the production from the Valley during those periods of low production, is it not true that other refineries have very serious difficulty in getting any oil at all?

A It is quite possible that that would happen.

Q And yet is it not also true that during those same periods the wells from which they had got the oil could produce much more and still be efficient producers?

A That again follows. As I stated even during the maximum production period that these wells and perhaps many other wells in the field could, whether it be a low production period or a high production period, produce more oil than they are allowed to produce, efficiently.

Q And yet the refineries supplied by those wells cannot get the oil, is that not true?

A Well when you say "cannot get the oil", you mean they cannot get oil from those wells.

Q Yes?

A Of course the wells can only produce their allowables. The Conservation Board will see they do not produce any more but those refineries can get oil.

Q Where would they get it?

A They would have to buy it from some one who has it as they do in any field.

Q You know from your experience that they cannot buy that oil from other people at the field price?

A I do not know if that is true.

Q You know that?

A No, I do not know that that is true.

Q That has been drawn to your attention?

A In fact my impression is quite the reverse.

Q So so far as you know these people who are short of oil can buy from other refineries at the field price, is that right?

A At the field price, that is the price for the oil. They naturally would have to pay for the transportation of it.

Q Now perhaps we will have to bring other evidence on that point but assuming that they cannot buy at the field price ---

A Yes, I am willing to make that assumption with you.

Q Now assuming they cannot buy at the field price, that would have the obvious effect of placing the refinery in a very unhappy position so far as the crude is concerned, would it not?

A That could be the case, yes.

Q And it would have probably a further result of increasing his costs of producing the refined product?

A On that assumption it would.

Q And it would place him in an unhappy competitive position with the other refineries?

A Well if his costs were more I suppose your inquiry is predicated on that, his position would be an unhappy one but that is true of all refineries; I mean if a refiner cannot persuade some one to sell him oil he may be in an unhappy position or if

the refiner has to pay someone a premium he may be in an unhappy position too, all of which, of course, is of no vital concern of the Conservation Board.

Q Do you not recall a situation last spring when one of the local operators was unable to obtain supplies of oil?

A I recall it very well and as I recall it at that time the reason or the excuse that was being circulated around the street was that the field was unable to produce and as I have said, that is not true.

Q I am not asking for rumors circulating on the street but what I wanted to get at is what you knew about it as a member of the Board?

A What I knew as a member of the Board is that the Conservation Board allowed the field to produce the total amount of oil which the Board estimated would be required and in making that estimate we were guided by what the refiners and purchasers of oil told us their requirements would be; we allowed, we made the field allowable on that basis and the field produced that allowable with the exception of a very, very few isolated days.

Q You knew, Mr. Cottle, that this particular operator was trying to get oil and couldn't get it?

THE CHAIRMAN: You say "the operator", you mean "the refinery", Mr. Mahaffy.

Q MR. MAHAFFY: The refinery, I will put it that way?

A I have heard that a certain refinery was having difficulty in making negotiations with the person from whom he desired to buy oil, yes.

Q Yes?

A I didn't hear that though as a result of my position with the Conservation Board.

Q Was not some complaint made to the Board about this situation?

A It might have been if they were ---

Q Do you not know about them?

A I do not recall any definite complaint to the Board. There may have been. I am willing to assume that there was, for the purpose of your question.

Q Who would know about that if you did not know?

A Well if it were it would be done by correspondence, or by telephone at least and I do not know that anyone would know better than perhaps myself and I do not recall it.

Q You do not recall what the situation was, is that it?

A No, I do not remember any particular communications concerning it.

Q You do know ---

A There may have been one though.

Q You do know there was a situation where a refiner couldn't get sufficient crude oil except by paying a substantial premium, you know that?

MR. SMITH: You use the words "substantial premium", why not say just "premium".

Q MR. MAHAFFY: A premium.

MR. SMITH: If that is what you mean, I do not know.

Q MR. MAHAFFY: A premium?

A Well, as my recollection goes a refiner complained that he was unable to get his requirements of oil without paying a handling charge which I think was 6 cents a barrel ; now whether it was 6 cents or something more or something less I do not know and the figure 6 cents only came to me indirectly I think.

Q Yes. Well now did you ever make any investigations --

MR. SMITH: Probably if there is any correspondence you will produce it?

A I will be glad to produce it but I am satisfied there is no correspondence on it but I will search the file and see what there is.

MR. SMITH: Perhaps you can assist the Witness if you know somebody telephoned.

MR. MAHAFFY: I perhaps can get some further information. I thought Mr. Cottle would know all about it, to tell the truth.

Q MR. MAHAFFY: But Mr. Cottle, the situation at that time was that you know that one operator was short of crude?

A That one operator had not sufficient production of his own to meet his requirements, yes, there was an operator in the market for oil.

Q Have you any idea or did you make any investigations; somebody else must have got that oil, is that not a fair statement, the oil was produced so far as you know?

A The oil?

Q Yes.

A Well there again you put me in a difficult position because we do not see that each nominator, if you wish to call him that, takes what he nominates or if he gets only what he nominates. We are only interested in arriving at the total figure. Now you may say that one person's nomination was produced, I do not look at it that way at all.

Q Well then, let me ask this question, Mr. Cottle, supposing you said the Royalite, in one of these Schedules, "Royalite, you may produce 5000 barrels a day"?

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F. G. Cottle

A Yes.

Q But Royalite only requires 2500 barrels a day for their own refineries and the refineries of their subsidiaries, and they only produce 2500 barrels a day, would not some other oil refinery be going short of oil?

A If they restricted their wells below the allowable, is that what you mean?

Q Yes.

A I presume, presumably, yes, presumably someone would be short of oil if that happened.

Q But that is something you do not worry about?

A Well I would worry about it, yes, I would worry if the whole field were producing much less than the figure which we allowed it to produce because the total figure which we allowed it to produce was arrived at on the basis of what the requirements were going to be and therefore if at that time we found that people restricted their wells below the allowable, then we would have to issue a new Schedule very rapidly to see that enough oil is produced, providing the total amount of oil could be produced efficiently.

Q Yes?

A And at that time as I said in my statement there were not sufficient wells producing below their allowables to produce any great difference at all in the total amount of oil produced.

Q But if that increase still did not permit of other refineries --

A What increase, Mr. Mahaffy?

Q Getting their requirements?

A What increase are you referring to?

A The increase you spoke of a moment ago, your hypothetical increase, to make up for the fact that some wells were shut

down?

A Oh, yes, I understand.

Q If that increase still did not permit of independent refineries getting their oil, then what?

A Well, we would increase it again if that happened.

Q Until you reached the efficient production figure?

A Until we reached the efficient production figure.

Q And then what?

A Until we reached the point of exceeding the efficient point and then ---

Q Yes?

A Then that is the end, beyond that we would not go.

Q I see?

A Whether someone was short of oil or not, that would not interest us.

Q Insofar as your concern, so far, just as you said a moment ago, you are really not concerned with the individual requirements which make up your total requirements?

A That is quite right.

Q Except in that you get the total?

A Take in Mr. Plotkins' case, for instance, it is no concern of ours how Mr. Plotkins gets his oil or how much he pays for it.

Q Or whether he gets it at all?

A Or whether he gets it at all. We are willing to see that the field produces sufficient oil to take care of all requirements.

Q And it is up to him to get it where and how he may?

A Quite.

MR. SMITH: It is just commerce, in other words.

MR. MAHAFFY: Yes, I realize that but we will get a little more than that now.

Q MR. MAHAFFY: Now take that same case, Mr. Cottle, you have mentioned, Mr. Plotkins, I am quite content to use that as an example, if there is a well or wells in the field capable of supplying Mr. Plotkins' refinery, producing at a rate which does not exceed your idea of an efficient production rate, would any harm come to the field from allowing those wells sufficient to supply him?

A Whether harm would come to the field or not, we would not permit it because it would disturb the rateable withdrawal of oil from the Reservoir which is our idea of conservation and equity; when we arrive at what a well's proportion of production is and we arrive at that based on what that well has, on all the characteristics of that well in relation to the total, we will not under any circumstances allow that well to produce more than that proportion.

Q I understand that and as you say that is your idea of equity.

A And conservation.

Q And conservation?

A Yes.

Q Would it not also be your idea of equity that having adopted that premise, you should then go one step further and say, "now if we are going to conserve this field, if we are going to be equitable amongst producers, then we must see that the refineries are allowed to obtain their requirements"?

A Allowed to obtain their requirements?

Q Yes.

A Well whether we thought well of that suggestion or not, we have no power so to do.

Q Pardon?

F. G. Cottle

A We have no power so to do, to see that a refiner gets his oil; it is no concern of ours.

Q Just stop there, Mr. Cottle, would it not be a sound recommendation for this Commission to make to the Government that you be given that power?

MR. SMITH: I take it that Mr. Cottle can answer that but I doubt if the Commission would want him to.

MR. MAHAFFY: I am just asking him, My Lord, if there is a missing link in this Act, I am sure Your Lordship wants to know about it and wants to hear any recommendation he may have about it.

MR. SMITH: I am not objecting to facts, but the Commission can draw its conclusions from the facts. What I was suggesting, perhaps the Commission, having heard the facts, the Commission might not be interested in hearing what Mr. Cottle thought about those facts.

THE CHAIRMAN: Of course Mr. Cottle has now had wide experience in the workings of the Act as it stands and out of that experience has knowledge which would justify him in expressing an opinion that his power should be increased or curtailed, or the Board's power and we would be glad to hear about it.

WITNESS: I am quite willing to express an opinion, which, of course, is entirely my own, and that is, to do as you suggest, Mr. Mahaffy, we would be going a little further than a proper conservation and I do not think it would be practical personally.

Q MR. MAHAFFY: Now, Mr. Cottle, is not the primary object of the Act which you are administering, the conservation of the field?

A That is right. It is so stated in the Act.

Q And as long as wells are producing at their most efficient production figure, you are satisifed in the last analysis?

A No, not necessarily at all.

Q Then you do base your conclusions on market requirements, do you?

A No, we based our total but you made the statement that so long as a well is produced at its point of maximum efficiency that we are satisfied.

Q No, the field, I did not mean the individual well.

A The field, quite.

Q The field?

A Yes, I will agree with you.

Q At the most efficient figure?

A Yes.

Q But then you do feel that you have an additional burden on your shoulders of restricting production to the market requirements?

A Yes, for the reason that we have to insure that no individual well produces more than its fair proportion, its proper proportion, having in mind conservation.

Q Having launched yourself into this additional field of market requirement; now that is something aside from the effect of conservation, is it not, or it may be something?

A Well, there you aremaking the suggestion that we are launching ourselves into market; from what point of view do you mean we are launching ourselves into the market?

Q From this point of view that you are further restricting the production of the field down to market requirements?

A Yes, but at the same time we are perfectly willing that the field produce as much as anyone reasonly desires from that field.

F. G. Cottle

Q THE CHAIRMAN: What Mr. Mahaffy want to know, as I understand it, is where do you get your authority for pro-rating to markets, providing always that no wells are producing more than they efficiently may, why are you concerned about pro-rating as between owners in this divided pool, where is the authority for it and why are you concerned with it, is that right?

MR. MAHAFFY: That is the first point, sir, and then following from that my suggestion, My Lord, is this, that if the Board does take unto itself the duty of reducing production to market requirements, then hand in hand with that should go the authority from the Board to see that the refineries involved get the supplies they need.

THE CHAIRMAN: You say the pro-rating to market has nothing to do with the question that you are putting to the Witness and we want to be clear on that, pro-rating to market has nothing to do with conservation; that is a matter of undertaking to deal equitably as between all owners in the field.

MR. MAHAFFY: That is right.

THE CHAIRMAN: Now you say if you are going to concern yourself with equity at all you should be concerned that your procedure does not do inequity, that is your position?

MR. MAHAFFY: Yes.

THE CHAIRMAN: I am taking it a step at a time. Where do you get your authority for pro-rating to market under the Act in which you are charged with the duty of conservation?

A Well I think to answer that, the term "pro-rating to market" requires a definition; it is suggested there is some sinister thing about pro-rating to market, I think.

F. G. Cottle

Q THE CHAIRMAN: Oh, no.

A When a producer is curtailed, because we are not intending to regulate the markets at all; all that we are trying to do is to find out how much oil is going to be produced.

Q Mr. Cottle, you misunderstand, pro-rating to market does not mean you have a thing to do with the market, it merely means the market being what it is, you in some measure divide it up pro-rata amongst those interested in supplying it?

A Yes.

Q Of course it has nothing to do with your juggling of the market, pro-rating means it is getting its share of the existing market whatever it may be and the question that is put to you, why are you concerned that each should get his share, you are not an arbitrary judge you are a conservation officer?

A Yes. I see your point, sir, and we are not at all concerned that each one gets his share of the market, not slightly concerned, but we are concerned that each well produces only its proportion of what is going to be produced.

Q All right?

A Now the amount of oil which is going to be produced is the amount of oil which is going to be marketed and something has to be done with it ---

Q All right but why are you concerned that each well should gets it share?

A Of the total production?

Q Yes?

A So as to have a reasonably equitable ratable withdrawal of oil from the Reservoir because we do not think that conservation nor equities can be maintained in that Reservoir unless there are ratable withdrawals based

on the characteristics of each well.

Q Yes, but I do want to understand this, Mr. Mahaffy, he gives you a premise that well "A" can efficiently produce, in relation to the field, from its 40 acres, so much oil ---

A No, pardon me for interrupting, he didn't say in relation to the field. He said it could efficiently produce, which is quite a different thing.

Q All right, can efficiently produce on 40 acres so much oil, you say in relation to the field, that may be something very different again?

A Quite.

Q Because it may be disturbing the equilibrium of the field?

A Yes, and result in that 40 acres producing more oil than the Conservation Board thinks it should, having in mind the characteristics of that property and that well in relation to the characteristics of all other properties and wells in the field which would result in an inequitable withdrawal from the Reservoir in our opinion.

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F. G. Cottle

Q So that is not surely in your own mind. You are confusing equity and conservation. But let us keep them apart for the minute. You may have authority to do equity between all the owners in the field; I do not know. If the act says so, Mr. Frawley can point to it if you have. There should be no confusion between the two. Conservation is not concerned with equities between owners. It is to conserve the pool so that it may produce efficiently as I understand it.

A The pool, yes.

Q The pool may be efficiently produced and nothing is wasted. That has nothing to do with equities between individual owners at all. Now if a given well is allowed to produce efficiently that either means that that well can produce efficiently without injuring other parts of the field or it means that that wells production is to be determined by how many other wells there are in that pool. Is that not right?

A Yes, I would say that is right. When you say a well can produce efficiently then you are faced with the necessity of defining of course, efficiency. When is a well efficient. No two wells are alike in Turner Valley. Each one of them will produce at a different gas oil ratio than its neighbor. Nevertheless they may be all efficient from one point of view though they may may be all inefficient from another point of view depending on somebodys idea of what efficiency is.

A Is the efficient production of a well -- I do not think we ever went into this before and that is why I am pursuing it -- is the efficient production from a well in whole or in part governed by the number of other wells there are in the pool?

A By relation to the individual wells efficiency or lack of it to the efficiency or lack of it to all of the other wells in that field. That is our guide of the relative efficiency of an individual well. No well is efficient from the perfect sense. There is no perfection in efficiency in the production of oil. Oil cannot be produced at least in this field and as far as I know in most other fields without some gas being produced with it. Now the most efficient rate of production of a well must of course be when the well is not producing at all because it cannot displace any energy. If there was any gas wasted at all from the withdrawal of oil from the reservoir it withdraws that energy unless there is some other energy which we know nothing of. So that when you speak of efficiency you can only speak of it with respect to some standard you might have in mind. In a word that the relatively efficient well must withdraw more energy from the reservoir than the relatively inefficient well and that must necessarily be because of getting the most efficient withdrawal you can from the reservoir. If the efficient wells do not produce more than the inefficient wells the energy would be gone when the production approaches or long before the recoverable production is recovered, so that any conservation scheme must provide for the relatively efficient wells producing more oil than the relatively inefficient wells having in mind only conservation. Now you can call that equity and certainly I call it equity but, you will find nothing in the act mentioning equity of course.

Q I am leaving equity out of this entirely. We will come to that. I am on a wholly different thing . If that pool

was owned by one person only you would not be concerned with equity would you?

A Of course not.

Q Definitely not.

A And if that pool were controlled by one person it is quite possible this person would produce different amounts of oil from the present wells for that reason, because in that case the less efficient wells perhaps would be closed altogether. The conservation board would not go that far.

Q A person might own the pool and put down wells and he would be naturally concerned with the efficient and economical production would he not, from his whole field?

A. Yes, unless he is possessed with the law of capture, he would.

Q If he owned the whole field he is not worried about the law of capture?

A If he owned the whole field that would be probable.

Q If he owned the whole field he could produce a well at a certain rate efficiently. There would be an efficient rate at which that could be produced?

A. No, there is a range of efficiency in some wells which might differ considerably. The efficient rate is not just a given figure per barrel, to the decimal point, by any means, in my estimation.

Q Perhaps so, but taking that one well he could find out what was the rate of withdrawal he could make from it.

A The range yes is what he could ascertain.

Q The range, alright. If he put more holes down would that change the rate? If this is one person who owns one pool. Let us keep to that for the minute.

A If you put more wells down you would have an effect on that well that is already down.

Q Yes ?

A It would depend on where you put them.

Q It would depend on where you put them , Yes ?

A If he put a well many miles, in the same field, away from this particular well, the effect of that well would naturally be much less than one right on the legal joining sub-division.

MR. MAHAFFY: If I may interrupt I would suggest that Mr. Cottle is really not competent to speak on a subject like that as that is an engineering problem.

MR. FRAWLEY: He seems to be doing very well.

MR. MAHAFFY: I have no reflection on Mr. Cottle at all but as to how a field would be most efficiently produced, I do not think Mr. Cottle is competent to say.

A All I am endeavoring to do is give to the Commission the benefit of the views of the Conversation Board which of course have been obtained by consulting experts, and the policy that we are following.

THE CHAIRMAN: You see this Board functions in a certain way and what the witness has said on the face would seem to me that pro-rating was one thing between individual owners in a pool and that producing from the pool at its maximum efficiency is quite amother thing and that the two might be opposed one to the other. I am just trying to follow up to see how the Board went about it.

MR. MAHAFFY: Probably an actual example of a well might clear the situation, if I might ask one or two questions.

THE CHAIRMAN: Certainly.

MR. SMITH: I wonder if I may intervene. In using the term maximum efficiency, if you take that singly owned field as Your Lordship mentioned, and if one person owns the whole of it, and he had a well, the efficiency might be to close that down altogether even though he had one well and did not drill another one. We cannot confine this subject. It must be in some range, probably an arbitrary range, and is just what the Board seems to have done here. As they say, "By comparison we find so and so". They quote a limit and above that they say it is a gas well. Now may I just continue. You said a moment ago that the position in equity between owners and conservation are entirely different. I think, if I followed you correctly, you said they might be opposite. But if you leave out the word owner - perhaps one cannot apply the word equity to land but you get the principle, I think in my mind which is the underlying principle with the Board so that in an area a well shall be operated so that it shall not only be efficiently operated itself but that it shall not be an injury to the B area. That is a very sound principle and that is equity.

THE CHAIRMAN: I follow that perfectly but just to conclude this and clear all our minds a bit, mine anyway, I do not understand from what the witness has said if you leave aside equity, doing equity to all owners in the field, if you leave that aside and it were one pool and one owner who had the well in operation sound judgment might indicate he would close it down as you have pointed out. But unquestionably if sound judgment indicated that he run it full blast consistent with his not hurting the rest of his property he would undoubtedly do it.

MR. SMITH Oh yes. Of course we do not think that is a possibility.

THE CHAIRMAN: Now then, this Board says, You must not do that unless you can do that consistent with all other owners in this field getting an equal amount of the total that is to be produced from the field".

MR. SMITH Exactly, which again is based on the property.

THE CHAIRMAN: And perhaps you are right in saying that true conservation involves both efficient production and equity between owners in a divided pool. But they should not be confused.

MR. SMITH: They should not be confused.

THE CHAIRMAN: But what Mr. Mahaffy was trying to express was about effecient production. I say when you get through with effecient production which is one thing you turn your mind to equitable division which is another thing and Mr. Cottle can tell us how he approaches both.

MR. SMITH: Equitable division is one thing that is still bothering me. That involves owners if it involves nothing else.

THE CHAIRMAN: It involves what the Board is doing in pro-rating.

MR. SMITH: If you divided it between lands I can go with you. I do not think at the moment you should have owners. There can be equities between lands as well as between owners of these things having regard to the conservation or efficient production of oil and gas underground.

THE CHAIRMAN: When I say owners you are quite right. After all the owners --

MR. SMITH: Represent acreage.

THE CHAIRMAN: Yes. When I say pro-rating I do not mean as between Brown and Smith but as between acreage which in any divided pool the Browns and Smiths own, not using the word Smith --

MR. SMITH: The Browns do but the Smiths do not that is the trouble.

A Might I say something about equity before we go any further. Let us suppose we have two wells in the field. As I said before there is no such thing as absolute effeciency. You can only speak of efficiency as in relation to something. We will speak of well A's efficiency in relation to well B's efficiency. There are only two wells we are concerned with. The two wells are owned by two separate people. Well A has a gas oil ratio of say 5,000 feet per barrel and well B has a gas oil ratio of 1,000 feet per barrel. It may be that the true operating efficiency - I do not say it is and I do not even suggest it is - may be that the proper operating efficiency would dictate if these two wells are owned by separate people that well B while it is efficient is not as efficient as the other well and should be closed down completely and Well A do all the producing. Now we are administrating pro-ration and if as a conservation board A and B are owned by separate people I think a procedure of that kind, that is closing well B down because it is not as efficient as well A, that in closing him down completely would be inequitable. That is what I mean by equity.

F. G. Cottle

Q THE CHAIRMAN: That is alright? It may be quite right?

A Because well B. has something that he can produce efficiently as far as he is concerned.

Q If you have the authority to pass upon equity as between parties I think that is quite so. If you have not then we come back to Mr. Mahaffy's point, why should not a well produce all it can without harm to the pool as a whole, without disturbing the equilibrium of the whole pool? Why should not it get every dollars worth of oil out of there it can, providing it has not a deleterious effect upon the pool as a whole. Maybe it is wise that the total of the market demands be divided among these people according to the acreage, or any other yard stick you like, who are interested in that pool. But that is a different problem. That is a different question and it may require a different answer. But the first step is, if a given well can produce without injury to the field X barrels, if you are only concerned with conservation and not equity, than why should it not be allowed to produce ?

A The answer to that is that under those circumstances the well cannot produce more than the proportion that the Board computes it should produce without doing some damage.

Q MR. SMITH In comparison with other wells?

A Yes, and that the efficient rate for any one well must necessarily be related to the rate of the other wells, so that the two problems cannot be separated.

MR. SMITH We are into an engineering problem now.

Q THE CHAIRMAN: If that is right, Mr. Cottle, the efficient rate of production of a well today would utterly change if there were one hundred more wells put in tomorrow.

A It is quite possibl it would . The total production of the field would.

Q I know it is possible but unless it is a positive fact surely your prceedure as far as conservation goes now, not equity, would be wrong?

A Why would it be wrong.

Q Because unless it is going to change as more wells go down you are certainly reducing the allowable, as more wells go down.

A Yes.

Q And you are neither reducing it on the ground of equity nor on the ground of efficiency, conservation. The two do not necessarily go together at all as they are different problems.

A I do not see how you can separate them. If you accept the proposition that the efficient rate of production or the efficient range of rates of production for any given well, having in mind conservation, have been upon the efficient rate and ranges of production of all other wells on the reservoir and also have been upon the total amount of oil that is being taken from the reservoir.

A Airight.

Q MR. MAHAFFY Take an example. Supposing during the next six months there are an additional twenty or twenty-five wells drilled in the extreme north end of Tu Valley which is a sector --

A A Which.

Q A section of the field completely separate and apart from the southern end---

MR. SMITH: What do you mean by that, geographically?

MR. MAHAFFY: No, I think the evidence that has been put in here so far would indicate that even if another twenty-five wells were put down in the extreme north end of the field that it would not geologically affect in any noticeable degree anything at the southern end of the field.

MR. SMITH: I thought you meant they were divided by a fault.

MR. MAHAFFY: Well I think- I do not know the reason but that is the result. Supposing that twenty-five wells were drilled in the extreme north end of the field and the market requirement remains the some and these wells are substantially large producers. You are going to cut, or you would cut, under your present procedure, the allowable of the wells in the south end of the field would you not?

A I presume we would. The same would be true if some other field is discovered in Alberta.

Q So a field if discovered in Moose Dome or Grease Creek, that is going to cut down the production allowed from Turner Valley wells.

MR. SMITH: Include Savannah Creek. I have an interest and w nt to see that come in.

Q MR. MAHAFFY: That would cut down the allowable of the Turner Valley Wells?

A With a static market naturally it would.

Q So obviously there being no change in things other than wells coming in your idea of what you have to do under your Act has gone down very considerably on existing Turner Valley wells.

A Our idea of --

Q That is an awkard way I put that question. You are satisfied these wells are being operated at an efficient or better than efficient point?

A No I did not say that Mr. Mahaffy. I said that we are satis-
- fied for the field to produce at that rate. I did not say that it was the efficient rate, in fact I said there was no such thing as an efficient rate. There may be a range of efficiency.

Q I said efficient or better than efficient?

A I do not know how you would get something better than efficient. That is super-efficient. I do not know what you mean.

Q Well I will put it this way, you are not producing wastefully- I put it that way - in southern Turner Valley right now.

A That requires definition. I said if you produce a well at all there is bound to be some waste whether of gas or energy or something, so that when you say efficient you must relate it to something, otherwise the word is meaningless.

Q Are you satisfied being charged under the Act to supervise the operation and production in the Turner Valley field that effective conservation measures are now in effect in respect to that field?

A Yes.

Q You are satisfied.

A Yes.

Q Now even if new fields are brought in in other parts of the province of equivalent production to what we now have in Turner Valley the result would be that you would cut the allowable production in Turner Valley in half. Is that not right?

A. Yes. We would do the same as we would do if the market suddenly shrunk to half what it is.

Q So what I am getting at My Lord, and I do not know that I am making it very clear, is that using efficient in the sense of an effective conservation scheme, you have that in force in Turner Valley now.

A Yes. It differs in the summer and winter time of course. In the winter that same condition arises that you now mentioned. In the winter the production rate of the whole field is approximately half what it is in the summer, perhaps even less. So that between one years end and another years end that very condition arises and is met by the conservation board.

Q Let us stay with the example of a new field. Supposing that a refiner had contracts to buy all his crude from the Turner Valley producers and he had no manner in which he could buy the crude from Mr. Smith's Savannah field.

MR. SMITH: Good.

Q MR. MAHAFFY: Where is the refiner going to get his crude? Suppose the refiner has contracted with Turner Valley and Mr. Smith brings in the Savannah field and the refiner has no contract with Mr. Smith. He is unable to purchase crude from the Savannah field so where is Mr. Refiner going to get his crude.

A Unable to purchase from Mr. Smith. You are making a hypothesis there I cannot quite visualize.

MR. SMITH: If Turner Valley does not pro - duce enough for him, is that what you mean?

MR. FRANLEY: Cutting the Turner Valley down because of the new Savannah field?

A We won't cut Turner Valley down because of the new Savannah field but the reason the conservation board would cut Turner

Valley down would be because the demand for oil from Turner Valley has been cut and we cannot have equitable withdrawal without taking that into consideration.

Q MR. MAHAFFY: That got you out of that dilemma very well but let us go to Turner Valley. Does not exactly the same situation exist in the winter time when you cut the field in half. Where does this same refiner then get his crude.

A From some one who has it.

Does he?

A He either does or he is violating the Boards orders and produces his wells in excess.

Q. You know that he does not get it, don't you, and that he cannot get it without paying a premium?

A. No. As I said, I do not know that at all.

Q Haven't you investigated that situation.

A I think I have knowledge of it yes.

Q Then I will come back to my other question. If you consider it is equitable among producers to cut production in half and cut it below what you would still consider the efficient allowable production --

A Now just a minute. We would not cut it below the efficient rate of production.

Q Now let us make sure that you and I are going in the same direction.

A Let us be sure about that. You are implying that the field when producing ten thousand barrels a day the efficiency may be below what it is if it was twenty thousand barrels a day. I do not wish that impression to be given.

Q I say better withdrawal. You are satisfied when they are pulling nineteen thousand barrels out of the field it is operating efficiently. You were last spring.

F. G. Cottle

A Yes.

Q When you cut it down to ten thousand barrels and in my laymen's mind that should be better for the field than it was before, I may be wrong.

A It depends on individual wells.

Q Anyway, it is still efficient.

A It is still reasonably efficient, there being no such thing as absolute efficiency.

Q What I am getting at is if you cut these producers down to the ten thousand barrels level would it not also be equity for the Board to see that the people whose figures you have used to arrive at that ten thousand figure should get their share of the oil.

A It may be equitable for someone. I do not think it is for the Board.

Q MR. SMITH You would have no objection to a marketing Board being appointed in this province.

A I do not care what functions are carried on by the Government over and above what we excerise as a Conservation Board.

Q MR. MAHAFFY: Is it fair to say that you have never bothered your head about that feature and do you feel it is outside your jurisdiction.

A It is definitely outside of our jurisdiction.

Q But you do feel that the equitable distribution, as you call it, of the allowable production of the field is within your jurisdiction.

A Quite, by reason of conservation.

Q You do feel it is proper for you --

THE CHAIRMAN: To cut down that production to the market requirements.

F. G. Cottle

MR. PLOTKINS: Let us correct that statement, to their conception of market requirements because as he says he does not follow the market at all and he does not of necessity follow the nomination. I will go into that a little later on.

MR. MAHAFFY: Will you answer my question.

A. Would you mind reading it again Mr. Reporter.

(By the Reporter reading)

Q Is it fair to say that you have never bothered your head about that feature. You feel it is something outside your jurisdiction.

A It is something definitely outside our jurisdiction.

Q You do feel that the equitable distribution, as you call it, of allowable production in the field is within your jurisdiction.

A Quite, by reason of conservation.

Q You do feel it is proper for you --

THE CHAIRMAN: To cut down that production for market requirements? "

A Yes, we feel we have no other course to take because after all requirements are the determining factor is how much oil is going to be produced. Our only reason in looking at the market requirements is to have some figure to pro-rate to the wells for the purpose of arriving at each wells proportion of the total amount of production. We do not, in that proceedure, attempt to restrict the market or enlarge the market or have any bearing on the market.

Q Now coming back to my one other question which you have not yet answered and I think you should now. You have been at this business for some considerable time and have had a lot of experience with it and have seen how it is working. Would

you not think it a wise thing to, the way this thing has worked out, to have this Commission recommend to the Government that you or some other Board should be given the power to see that these refiners get their requirements, when you act on these nominations.

MR. FRAWLEY: I do not know whether I should interrupt. Mr. Mahaffy has not followed our Commission throughout right from the very beginning and I wonder if I should not perhaps call his attention to the fact that on more than one occasion Mr. Nolan representing the Imperial Oil and its subsidiaries and Mr. Harvey representing the British American have stated to this commission that their people would sell oil at the posted field price plus carrying charges to Calgary.

MR. PLOTKINS: That is qualified by their surplus. That changes the picture.

MR. MAHAFFY: What do they say about crude oil delivered in Turner Valley?

MR. FRAWLEY: What do they say about crude oil delivered in Turner Valley? I do not know that they said anything about any particular crude oil delivered any place. They were particulary talking about --

MR. MAHAFFY: They have not said anything.

MR. SMITH: May I make the suggestion. I say with respect I do not think you should ask Mr. Cottle to give you his opinion. If this is something, a matter of policy to be determined by the Government it may be that the Conservation Board may be asked its views. They have no views at the moment. Mr. Cottle is here as an individual. My learned friend,

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Mr. Mahaffy having plainly brought out his facts it is a question of opinion as to what should be recommended. So many things enter into it. I am suggesting it is not in the public interests for Mr. Cottle, who is here as a member of the Board, to be asked to express that opinion.

MR. MAHAFFY: I thought Your Lordship and Mr. Commissioner were sitting here to help the Government make up its mind by making recommendations to it. I do not think the Government intends to go looking around for facts and getting information elsewhere. I understood they were going to act on your recommendation or at least seriously consider it and they wanted you to obtain the full facts.

THE CHAIRMAN: I think if Mr. Cottle as a result of his experience felt that he had not the power to do things that he thought would be of advantage in Turner Valley, in the actual operation of that field, that he should tell us what he thinks should be done and, we, in turn, if we accept his views, would recommend to the Government that he be given these further powers or some other body be. If he finds it is not working out well according to the statutory powers that he now has. You see we are asking engineers all the time to tell us what they think and we have invited the whole industry to tell us of anything that they think will be of advantage.

MR. SMITH: I was merely advancing the position that being a member of the Board you could get these opinions quite well from other persons.

THE CHAIRMAN: You think it would be embarrassing for a member of the Board --

MR. SMITH: Yes, to tell the Commission that the government should increase its duties. It is embarrassing for a member of this Board to answer this question. The government might say to Mr. Cottle to mind his own business, and they will ask for an opinion when they want it.

THE CHAIRMAN: But he is not giving an opinion to the government, he is giving us the benefit of his opinion because we ask for it and his answer to the government if they rap him over the fingers is that he was under oath and he was asked.

MR. SMITH: My only point is that you have an opinion on it right now. You have all the facts so I do not see why this witness should be put in an embarrassing position unless there is some good purpose to be served.

THE CHAIRMAN: I do not think Mr. Mahaffy wants to embarrass the witness. What concretely is your question.

MR. MAHAFFY: I asked the witness whether he did not feel that he should recommend to Your Lordship and to Mr. Commissioner - now perhaps you had better read it, I see Mr. Frawley is shaking his head.

MR. SMITH: That is just old age.

MR. MAHAFFY: Mr. Taylor can read the question.

(By the reporter, reading)

" Q Coming back to my one other question which you have not yet answered and I think perhaps you should now.

F. G. Cottle

You have been at this business for some considerable-time and have had a lot of experience with it, and have seen how it is working. Would you not think it would be a wise thing to, the way this thing has worked out, to have this Commission recommend to the government that you or some other Board could be given the power to see that these refiners get their requirements, when you act on these nominations."

Q THE CHAIRMAN: Does that provide you with embarrassment to answer that?

A I think I can answer that in this way. As far as I know any person desiring oil can obtain it from the Royalite Oil Company by paying the posted field price plus the handling charges. Also so far as I know those are the handling charges which have to be paid and are under the jurisdiction of the Board of Public Utilities Commissioners under the Pipelines Act. That being so it is my considered opinion that the Conservation Board not be given any further powers in that connection. Does that answer your question?

MR. MAHAFFY: Yes. Now my Lord there are some other questions I want to ask.

THE CHAIRMAN: I think that makes a complete answer to what you have on that point.

MR. MAHAFFY: I hope to question the witness on that statement.

THE CHAIRMAN: Mr. Frawley, you have the Act. No doubt we will have time to read it but I am interested in seeing where the power to pro-rate to market comes in.

F. G. Cottle

MR. SMITH: There is nothing in the Act, My Lord.

MR. FRAWLEY: There is nothing in the Act.

MR. SMITH: It was in the last one. We found that very embarrassing.

MR. FRAWLEY: I should be shocked if you found anything in the Act about that.

THE CHAIRMAN: You put it in the regulations instead. Now I want to speak about hours of sitting. I started with Mr. Frawley this morning.

MR. FRAWLEY: I intended to have a discussion with other counsel...

MR. SMITH: We have adjourned until when now.

THE CHAIRMAN: Two o'clock

(The hearing is here adjourned to be resumed at 2 P.M.)

2 P. M. Session

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MR. FRAWLEY: I am calling Mr. Gibb.

MR. SMITH: You are now through with Mr. Cottle?

MR. FRAWLEY: Oh no.

ROBERT ROXBURGH GIBB,

having been first duly sworn, examined by Mr. Frawley, said:

Q Mr. Gibb, you are the Accountant for the Becker Oil Company, Limited and the Becker Refinery?

A I am Accountant for the Becker Oil Company only.

Q When Mr. Sadlier was on the stand he offered as an Exhibit the Balance Sheet and a statement of operations for the year ending February 28th, 1939, of Becker Oil Company, Limited, but he was not able to prove it and so it was marked Exhibit "Y" for identification, is the document I show you your work and can you say that it is accurate according to the books of the Company?

A This document was prepared by me at Mr. Cottle's request from the books of the company.

MR. FRAWLEY: Then I offer Exhibit "Y" for identification as the next Exhibit.

(EXHIBIT Y HERE MARKED AS EXHIBIT "593").

Q MR. FRAWLEY: Then I show you Exhibit "X" for identification, being a statement of income and disbursements for the year ending January 31st, 1939 and the Balance Sheet as of the same date for Becker Refineries, Limited, which Mr. Sadlier also produced and was not able to prove, are you able to prove that?

A The circumstances regarding this statement are that when

MR. DRAKE: I do.

MR. SMITH: You may proceed with your cross-examination.

MR. COBBLE: Thank you, Mr. Smith.

ROBERT HOXBURGH CRIBB,

having been first duly sworn, examined by Mr. Drake, testified:

CROSS-EXAMINATION

BY MR. COBBLE:

Q Mr. Cribb, you are the Accounting Manager of the Peerless Oil Company, Limited and the Peerless Oil Company only.

A I am Accountant for the Peerless Oil Company only.

Q When Mr. Sadler was on the stand he offered as an exhibit the Balance Sheet and [illegible] of the Peerless Oil Company, Limited, but he was not able to [illegible] it was marked Exhibit "A" for identification. [illegible] document I show you your work and can you say that [illegible] records according to the books of the Company.

A This document was prepared by me at Mr. Sadler's request from the books of the company.

MR. COBBLE: Then I offer Exhibit "A" for identification as the next exhibit.

(EXHIBIT A Identified).

MR. DRAKE: Then I show you Exhibit "A" for identification, being a statement of Income and Disbursements for the year ending January 31st, 1939 and I

Balance Sheet as of the same date for Peerless Oil Company, Limited, which was prepared and was [illegible] to [illegible] are you able to [illegible]

Mr. Cottle advised us that he wished statements of this nature I was sent down to the refinery and took the figures as supplied to me by the bookkeeper of the Becker Refinery, operating in Royalty, I took his figures and made up the statement therefrom.

Q Are you able to say this statement reflects the information contained in the books of Becker Refinery, Limited?

A The statement contains the information as shown on the books of the Becker Refinery, Limited there.

Q You do not have to rely upon the say-so of the bookkeeper?

A I know them to be correct.

MR. FRAWLEY: I offer Exhibit "X" for identification as Exhibit "594".

(STATEMENT EXHIBIT X FOR IDENTIFICATION HERE MARKED AS EXHIBIT "594").

:::::

FREDERICK G. COTTLE, having been recalled, examined by Mr. Mahaffy said:

Q Mr. Cottle, I think just as we adjourned you said that in your view it would not be necessary for this Commission to make any recommendation with respect to the exercising of control over the disposition of the crude produced in the field and I think you said that in your view the Board controlled and set the amount which was produced as being the amount required by the market and that any refiner could therefore acquire his crude, paying such premium as might be imposed?

A No, I didn't say "premium", Mr. Mahaffy. I said by paying

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the field price and carrying charges that are in effect and that the carrying charges are under the jurisdiction of the Board of Public Utility Commissioners.

Q Yes. Now I suppose when you say "carrying charges" you have in mind the pipeline rate fixed by the Board and recommended by this Commission?

A Yes.

Q In other words the refiner in Calgary could pay the field price plus the pipeline charge?

A Yes.

Q Now what about----

MR. FRAWLEY: Surely, Mr. Mahaffy, it is all open. The Board now being seized with the whole matter can fix such rates and parts of rates for parts of service and so on, surely it is all open now.

MR. MAHAFFY: What Board?

MR. FRAWLEY: The Public Utilities Board.

MR. MAHAFFY: I do not say they cannot.

MR. FRAWLEY: It is now only a question of them doing so.

MR. MAHAFFY: They have fixed the rate.

MR. FRAWLEY: Yes, they have fixed a field carrying rate but I was merely making the suggestion that the Board might conceivably fix a rate for gathering, for trunk line services or any variation of the rate that has now been fixed.

MR. MAHAFFY: You are endeavouring to anticipate what I am coming at but I am not going to come quite to what you are anticipating.

MR. FRAWLEY: All right.

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Q MR. MAHAFFY: Now Mr. Cottle, that situation would hardly cover the case of a refinery such as the Gas and Oil Products, Limited whose plant is located in Turner Valley, would it?

A Yes it would.

Q In what way?

A Because the operation of the pipeline which functions in Turner Valley is under the jurisdiction of the Board of Public Utility Commissioners; no rate, so far as I know, has been established for gathering and delivering within the Valley but that is open to examination by the Board of Public Utility Commissioners.

Q But no such rate has been fixed?

A Not that I know of.

Q Well----

A I understand that subject is now before that body though.

Q Now in addition to that do you know, I believe you were acquainted with the fact that in the Spring of this year the Gas and Oil Products, Limited, which as you know, is a refiner of petroleum products, was unable to obtain supplies of crude oil except that they pay a premium?

A Except that they pay the handling charges which is referred to. I do not know that it would be properly termed a premium or not, they had to pay some sum in money per barrel.

Q You know too, do you not, that the Gas and Oil Products, Limited, took delivery of their crude oil from the well sites of Royalite Oil Company?

A I do not recall that sufficiently definitely to answer.

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I would have to check that up, Mr. Mahaffy.

Q I see, and when could you let me know about that?

A Well in a very few minutes if I used the telephone.

Q MR. FRAWLEY: If Mr. Mahaffy knows, I suppose the witness can assume with him that that is so?

MR. MAHAFFY: That is my information.

A WITNESS: I am willing to assume that.

Q MR. MAHAFFY: That delivery of this crude was taken at the wells sites?

MR. SMITH: Do you know which well?

MR. MAHAFFY: I do not know which well.

MR. FRAWLEY: Proceed then on that assumption.

Q MR. MAHAFFY: You know also that the Royalite Oil Company demanded a 6 cent charge over and above the field price for that crude?

A I have been told they did but I have no definite knowledge of it, of that fact, but I have no reason to doubt it.

Q Was that 6 cents charge fixed by the Utilities Board?

A No sir.

Q Is there any reason there should be any charge fixed for delivery, when delivery is takem at the well head?

A Well I suppose that is a matter of opinion.

Q Pardon?

A That is a matter of opinion. I would not want to say whether they should be or should not be. I have not explored the problem; in other words my mind is not made

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up as to what should be the case.

Q MAJOR LIPSETT: If delivery was taken at the well, would the Public Utilities Board come into the matter in any way, does it not turn on that?

A Offhand perhaps, I would say perhaps it would not be a pipeline matter but also offhand perhaps the pipeline, having the exclusive right to take oil from a particular well and being responsible for the disposition of the oil at the well if he wants to charge a handling charge, I do not know. It may be quite a proper charge or it may not be. I have not given that subject consideration.

Q MR. MAHAFFY: Did you know that after Gas and Oil Products ceased to purchase oil from the Royalite Oil Company, the Royalite Oil Company then sold oil to the Becker Refinery and made a 2 cent handling charge or premium charge?

A No I have not heard of that.

Q You have not heard of that?

A No.

Q Now if it is so that a 6 cent premium was charged at the well head, is it not fair to say that the fact that the Gas and Oil Products had to pay that premium, is in large measure at least attributable to your orders restricting the production in the field?

A Attributable in the sense that we would not allow a well, any one well, to produce more than its allowable and if Gas and Oil Products required more oil than its associated companies had allowables for, they obviously would have to purchase their oil elsewhere.

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Q Yes?

A Ir that sense the Conservation orders may said to be responsible for that predicament.

MR. SMITH: Mr. Mahaffy, you have been using the word "Well head", does it not all go to the tank farm?

MR. MAHAFFY: Well it goes into the tank at the well site but what I mean by well head, it did not go into the collecting system in any way, shape or form.

MR. SMITH: Exactly. You see I was looking for information, my idea was that they would not go to the well but that they would go to the tank farm or a group of wells or something of that sort and I thought the Commission would like to have it accurately.

THE CHAIRMAN: The position put by Counsel as I understand it is that it was a tank at the well.

MR. MAYLAND: A tank right at the well, no tank farm at all.

MR. MAHAFFY: Instead of the oil going into the gathering system it went into our client's possession, and that is the whole point.

Q MR. MAHAFFY: Now Mr. Cottle, following up what I was saying, is it not also true that under the system being followed by the Board, the Conservation Board, that if the Royalite Oil Company continues to carry on its drilling program and assuming for the minute that the Gas and Oil Products and its associated companies cannot continue to drill, then the amount of oil which Gas and Oil Products will require to pur-

chase from Royalite is going to constantly increase?

A Yes it would. If there were twice as many wells in the field as there now are and the additional wells that are drilled to create that number are the same kind, the same capacity, as the wells that are now drilled you can assume that each well's, each present well's allowable would be reduced to approximately half what it is.

Q Yes?

A And accordingly the wells that are now supplying Gas and Oil Products would be permitted to produce approximately half what they are now producing.

Q And Gas and Oil Products would then have to purchase that much more of its requirements from the Royalite Oil Company?

A Quite, or from whoever drills the extra quantity of wells.

Q Yes, quite, and if Gas and Oil Products had to pay a premium on all the oil which it so purchased, it would be suffering a serious disadvantage in its competition to, say, the Imperial Refinery?

A Yes, that would be the obvious conclusion.

Q That is true is it not?

A Yes.

Q And that I suppose you would agree would naturally have the result or tendency to increase the price to the consumers buying from Gas and Oil Products or might I say, it might have that result?

A It might and on the other hand it might not; that depends on whether Gas and Oil Products' price to the consumer is determined by the Gas and Oil Company's cost or whether it

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is determined by someone else's price. I think the logical conclusion would be it would result in a less profit or more loss, whatever the case is, to Gas and Oil Products.

Q The Gas and Oil Products, which might eventually force them out of the competitive field?

A Depending upon the extent of the thing.

Q Yes. Now do you know whether or not any government agency had anything to do with the fixing of that 6 cent premium?

A I do not know of any government agency having to do with it.

Q Did the Conservation Board have anything to do with it?

A Nothing whatever.

Q Did the Utilities Board have anything to do with it?

A Not that I know of.

MR. FRAWLEY: I do not think they did.

MR. MAHAFFY: I do not think so either but I wanted to make sure.

Q MR. MAHAFFY: So this 6 cents was just a figure pulled out of the air by the Royalite Oil Company so far as you know?

A I do not know where they pulled it from, Mr. Mahaffy.

Q At least it was not imposed by any government agency?

A Not so far as I know.

Q And so far as the Government is concerned or so far as the Conservation Board is concerned shall I say, it might just as well have been 12 cents or 3 cents?

A Yes it might. It is beyond our sphere of activity completely.

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Q Well now, Mr. Cottle, as I appreciate the situation, as you have told it to me, the whole thing is that you as a Board have concluded that there should be no more produced from the field than the market can absorb, that is right is it not?

MR. SMITH: Or facilities can store?

MR. MAHAFFY: Yes.

MR. FRAWLEY: That would be part of the market.

WITNESS: I think you are putting the emphasis at the wrong end. We are quite willing that as much oil be produced as can be made use of providing that that volume does not exceed, does not result in an inefficient production condition in the field.

Q MR. MAHAFFY: Now just before we get away from that, will you tell me on the present set-up of the field and the wells which are there, or if it is easier, put it on the basis of the last schedule you prepared, what is the maximum production which you will allow from that field?

A That cannot be----

Q That is, where do you pass that efficiency point?

A We have not passed it so I cannot tell you, Mr. Mahaffy. That can only be determined by experience. We would only know what the maximum is by increasing the production to the point where we see an effect on the field.

Q Now Mr. Cottle, you might not have done it as a field but you have made exhaustive tests in these wells, you

have had them running all the way from the closed-in point to the completely wide open point?

A That would not tell you what the field can produce.

Q No, but as to that particular well it will tell you quite a story, would it not?

A No, it would not because the amount of oil that one well can produce efficiently is determined by that, by the test which you speak of, with all other wells in the reservoir producing at what we consider to be less than the maximum rate.

Q And you have never made any tests to determine what that is?

A What the maximum is?

Q What the well's efficient point is?

A Well in the first place I said in the Board's opinion there is no efficient point; efficiency lies within a range of the production.

Q Have you determined what the rate is then, I will put it that way?

A For the field?

Q Yes?

A No, because we have not yet reached the maximum. We have never had occasion to determine what the maximum is. The range the other direction is zero.

Q Would it be fair to say then at the present time the Board does not know what the most efficient means of producing the field is?

A Does not know what?

Q Does not know what the most efficient means of producing the field is?

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A Efficient means?

Q Yes?

A I would say the Board is of the opinion that the present rates of production for the individual wells are within the efficiency range. We do not know the maximum boundary of that range of efficiency because in our opinion we have never reached that volume of production.

Q Now Mr. Cottle, didn't you get at the thing this way, what is the whole idea of the conservation, it is to conserve the energy that is producing the oil, is it not, is that not a reasonable thing?

A That is one of the, I do not know that that would be the underlying principle. It is certainly an important underlying principle.

Q What are the other underlying principles?

A To see that there is a rateable withdrawal in the field, to see that each property produces over a long time at a maximum from each property as well as the field as a whole.

Q Yes, and is it not true that in the opinion of the Board the way to get the most oil out of the field and out of the various properties is to conserve the generating lifting power and that is the gas?

A Yes, that is a fair statement.

Q And then is it not true that the most efficient way to operate a well is to produce it in such a manner that it produces the most gas or the most oil for the least gas?

A Yes I presume so.

Q Have you not found out what that is on any of these cases,

what the most efficient one is?

A Yes, I would say the most efficient rate of production for any well is zero.

Q You must not be too technical about it?

A You are asking me to be pretty technical.

Q I am asking for a producing well and not a shut-in well, we must assume that these wells are to be produced and I am asking what is the most efficient way to operate the well and I say it is to operate at such a pressure and such openings or whatever they call them, so that the least amount of gas is wasted or used to produce a barrel of oil?

A Within reason, yes.

(Go to number 13,086)

F. G. Cottle.

Q Well, now, surely the Board has some information as to what these figures are, with respect to individual wells at least?

A We know what the individual wells are doing on their present allowables and what they gave in previous months on other allowables, yes. Yes, we know quite a lot about individual wells, but as I see the point you are referring to, it is not a point. It may be in some wells a very wide range. For instance, a well may be able to produce quite efficiently at 600 barrels a day and on the other hand that well may be able to produce efficiently on an average of 10 barrels a day. It may be, perhaps, the best means of making it produce 10 barrels a day with as much efficiency as 600 barrels a day that it would be produced intermittently, every few minutes or few hours every day or a few days every week or every month. There are several different ways of maintaining efficiency with greatly curtailed production. That is why I say the range of efficiency on the bottom of the scale is practically zero. The range at the top, I do not know how large it is. The Board does not know and I do not think anyone else knows. We will only know when the field reaches that point in production where it can be seen.

Q Would it be fair to say this; as far as you know from the point of view of wastage of lifting power it might be better to allow the field to produce twice as much as it has produced this year?

A If the field produced twice as much as it is producing now undoubtedly it would be somewhat less efficient from the point of view of energy as it is now. It might still be within reason, however, I do not know.

Q In what way do you place any economic or other value on the gas that is wasted from these crude wells. Have you any scale

that you proceed on?

A No, we did not apply any scale. A well whose gas-oil ratio exceeds 31,000 cubic feet per barrel is a gas well. I think that figure was arrived at, having in mind the value of the product recovered with the gas in relation to the value of the gas itself, and as I recall it, I forget whether it was 4 cents or 3 cents a thousand.

Q I think your old Act said 4 cents, so I suppose that figure was still used?

A We do not apply that test at all. A gas well is a gas well because its gas/oil ratio exceeds 31,000 cubic feet per barrel

Q And in a crude well you do not place any value on the gas at all or on the product when it reaches the surface?

A We do not place any values on any products for any purpose.

Q Once you have allowed the gas to produce the oil your worry concerning the gas is completed?

A At the moment it is. We have made no point of seeing that the gas from oil wells has been put to proper usage. That does not mean that we are governed in policy by any means.

Q Why should not a well which has been tested and in respect of which you know is within what you have called the efficient range, why should not that well be allowed to produce within that range if there is a market for that oil?

A You mean regardless of what other wells in the field produce a

Q Yes?

A For the simple reason that we would have no pro-ration. You would be dealing with individual wells on their own merits and you would have no rateable withdrawal from the reservoir.

Q You say you would have no pro-ration. You mean to the available market?

A Pro-ration of the total consumption to the production of the

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various wells so as to maintain rateable withdrawal from all wells. The fact it is the market that is pro-rated has the least amount of significance.

Q That is what you do in fact, is it not, cut these wells down to the available market?

A Yes.

Q You increased the field allowable 1,000 barrels this morning, didn't you?

A Yes.

Q Why did you do that?

A Because that much more oil can be used from the field, and if we let that much more oil come from one or two or three wells you have a state of unrateable withdrawal.

Q The reason you increased the withdrawal, the total withdrawal from the field from 22,000 to 23,000 this morning was because you found that the market needed more oil?

A Yes, the market could take more oil.

Q If you found to-morrow that the market is glutted with oil, what will you do?

A We would cut the total field allowable down to the point where we thought the glut would be removed, because that would be an indication to us that very unrateable withdrawal was just around the corner.

Q So that heretofore, in any event, your whole guide in fixing production from the field and from the individual wells in that field has been the market requirement?

A Yes, that is right.

Q THE CHAIRMAN: In short, it is the social or economic condition?

A No, I would not agree to that.

Q Still engineering, no matter how much the market goes up or down?

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A Still engineering, yes, Sir.

Q MR. MAHAFFY: Who do you say it is still engineering?

A It is still engineering. It is still a matter of determining the relative proportion that any one well should produce. We do not wish to control the total amount that is produced so long as that total is within the range of efficiency.

Q THE CHAIRMAN: If that is right and it is purely engineering why don't you leave it up, if you are not concerned with market?

A I did not say we were not concerned with market, Mr. Chairman. If we left it up it will mean more oil is going to be produced than can be used.

Q Yes?

A The next result of that is-----

Q You do not think an engineer would care about that as an engineering development?

A No, but he would care about the result of that. The result of that would be this; he would have more oil being produced each day than could find any reasonable use each day, with the result that sooner or later some particular person in the field would have someone who would be taking his oil and another person would have no one taking his oil, with the result that you would have one group of wells producing a lot of oil and another group of wells producing no oil, which would result in unrateable withdrawal from the field, which is of engineering concern to the Conservation Board.

Q MR. MAHAFFY: You feel it is better you should cut them down and make one man pay more for his oil than the other man should pay?

A Make one man pay more for his oil than the other man. I do

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not get that.

Q That is what has happened?

A You are referring to the Gas & Oil Products paying a premium for oil?

Q Right.

A That may be the result of it.

Q Is not that something that your Board should have taken cognizance of or taken steps to correct?

A I think not.

Q You do not think this Commission should step into that situation in any way, shape or form?

A No, I do not. If some person in the field is taking advantage of the fact that he has all of the oil under his control and at the same time has more oil than he can use himself, I think that is for someone other than the Conservation Board.

Q Do you think that is fair. That situation stands there before you. You take the Gas & Oil Products Limited and you cut their well production down below where it could be and still be efficient and that force them to go to this other person and buy oil from them at a premium?

A You say cut down below where it could be efficient. Are you implying we cut it down to a point where it becomes inefficient?

Q No, I am not suggesting that.

A I just want to make sure that is not what you meant.

Q At the time the Gas & Oil Products had to buy this oil from the Royalite and pay this premium the wells of the Gas & Oil Products, or its associates, could have produced two or three times as much as they were producing; that is so, is it not?

A Right.

Q And still be within your range of efficiency?

A Yes.

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Q Do you think it fair that you should say to them to cut them down to half or two-thirds and buy your oil from these other people?

A We certainly think it is fair when we tell every other well in the field to do the same thing.

Q How is the price of crude oil fixed in the Turner Valley field?

A The price, as far as I know, is posted by the Royalite Oil Company, or is it by the Imperial?

MR. FRAWLEY: No, it is the Imperial.

Q MR. MAHAFFY: Anyway, they are all much the same. They are interlocking companies as far as we know. That posted field price is posted, in other words it is fixed by either the Royalite or the Imperial?

A Yes, by the Imperial Oil.

Q That is the same company from whom Gas & Oil Products had to buy its crude oil last Spring, is it not?

A I presume they were the only ones who had sufficient supply for you.

Q First of all, if the Gas & Oil Products Limited had not purchased that oil, what would have become of it?

A Well, I suppose it would have accumulated in somebody's storage tanks.

Q I am suggesting a different thing to you that might have happened to it. If Gas & Oil Products Limited had not purchased that oil they would not have had so much oil to market, would they, in the refined state?

A I think that is pretty obvious, yes.

Q Somebody else would have had to supplied that market, would not they?

A Presumably.

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Q Would it not be the Royalite Company or the Imperial Company that would have done it?

A Presumably. You are ignoring Mr. Plotkins, I think.

Q Well----

A The other people in the business of manufacturing and selling the product would have supplied it. It might have been even the Texas Company.

Q It is likely that the crude oil that the Gas & Oil Products did not get and did not buy from the Royalite at a premium would have gone through the Royalite and Imperial chain of handling and refining and found its way on the market. Is not that likely what would have happened?

A It is possible, but it is rather far fetched, I think.

Q Is it now?

A I certainly think it is.

Q Now, who else would be likely to get that market if the Gas & Oil Products did not?

A I think likely that the Gas & Oil Products would have bought the oil which they did.

Q For which they paid 6 cents a barrel premium?

A I presume that they did.

Q You heard that they did?

A I heard that was the figure they had in mind. I do not think I heard they actually paid it or there was any other settlement or anything else.

Q MR. COMMISSIONER LIPSETT: Would it be possible to find out if that was actually for the oil taken from the well tank or if it did include any gathering or any service?

A It would be possible to find that out from the Gas & Oil Products. I do not know that they did.

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MR. FRAWLEY: Mr. Cottle does not know about these things. He would only have to go and ask. We have Mr. Nolan and Mr. Mahaffy here. We could have a simple statement from them and settle that.

MR. MAHAFFY: My information, Mr. Chairman and Mr. Commissioner, is that that oil was----the delivery of that oil was taken from the Royalite Company at the production battery. That is before the oil finds its way into the pipe line system at all.

MR. COMMISSIONER LIPSETT: No gathering service given whatever.

MR. MAHAFFY: Apparently not.

MR. SMITH: It must go through a gathering service.

MR. MAHAFFY: Maybe two or three wells' production turned into that tank farm or battery, whatever you like to call it.

MR. FRAWLEY: Why cannot we have the simple fact as to the place on the map where it was taken possession of?

MR. NOLAN: The fact is the oil is gathered from three Royalite wells into a central battery and from there it is pumped into Mr. Mayland's line, and that pumping takes place on the oil lease, as I understand it.

MR. FRAWLEY: What do you charge for pumping or gathering and pumping?

MR. NOLAN: We charge them 6 cents, whether it was for gathering and handling or for gathering and pumping, I do not know, they paid 6 cents for it.

MR. MAHAFFY: I will be calling evidence with respect to that.

MR. MAYLAND: I might clear this. This gathering

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is the same as they take it from all the tanks where there is two or three wells, the same as our own. We pump from two wells into a couple of tanks, and that is where we received this, from the well head battery that they pump from a couple of wells. They have wells over here and a well over here, and place the tanks here, and that is where we take delivery of this oil.

THE CHAIRMAN: You say you are calling evidence about that?

MR. MAHAFFY: Yes.

THE CHAIRMAN: All right.

Q MR. MAHAFFY: Now, Mr. Cottle, if you did not restrict the production from the field to the market requirements, do you think that there would be any difference in the field price?

A Well, that all depends. It would depend how effective the pipe line pro-ration would be in controlling the price, but I think you would find instances of prices less than the field price. We certainly had prices less than the field price not very long ago for the same reason. However, whether you would or not, that is a matter of no concern - I mean the Board does not make it a part of its business to regulate that price but it would be one of the consequences of no pro-ration.

Q If you allowed the field to produce as much as it could efficiently, mind you-----

MR. PLOTKINS: And rateably.

Q MR. MAHAFFY: And still rateably, and more crude was produced than the market at that time required, is it not natural to think that the field price of crude would come down?

A Not necessarily. It would depend on how many people in the

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field saw it to have voluntary pro-ration for the purpose of preventing an excess supply in relation to the demand. That happens in many fields.

Q Yes, but now----

A And if sufficient of them did decide to pool their market or take some other steps to regulate production and to have pro-ration, the chances are that the odd wells that were willing to sell at less than the field price so as to produce more than the voluntary production would be ignored, as they were before. We had pro-ration in this Province prior to pro-ration by conservation.

Q Yes, you had pro-ration imposed by the major companies?

A And there was no disturbing of the field price except in isolated instances and these isolated instances did not affect the posted field price. I do not know what would happen if we did not do what we are doing.

Q As a chartered accountant you have a good working knowledge of economics, and if supply exceeds the demand what usually happens to the price?

A It depends on the extent to which it exceeds. If it exceeds it greatly you have a demoralized price.

Q You say a demoralized price. Are you satisfied that the price fixed by the Imperial is a correct price?

A No, not at all.

Q Why do you say it would demoralize the price?

A I say if you have a supply that is sufficiently greater than the demand that you would have a tendency to demoralize the price because you would have an unhealthy relationship between the supply and demand. As evidence of that we have the instance of what happened in the States, when the East Texas field came in. I think anyone would say that 5 cents a barrel

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in East Texas would be a demoralizwd price. It is something of that kind I have in mind.

Q Supposing you allowed one of these wells to produce a little more oil than the market now demands and that well was willing to market its production of crude at $1.00 a barrel, would you think that was a bad thing from the point of view of the Conservation Board?

A From the point of view of the Conservation Board I would not say anything about it because we are not concerned with what the field price is.

Q What you have done prevents that from happening?

A Yes, what we have done prevents any overburden of supply causing any change in the field price.

Q In other words, what you are doing is enabling the Imperial to maintain that field price as they now have it before us?

A As far as excess production is concerned, yes.

Q As far as any production is concerned?

A No. We have made it impossible for any one well to produce any more than a given amount of oil and thus throwing an abundance of production on the market. That does not mean we are enabling the Imperial to maintain its present price. There are many other factors that bear on the price that we are not at all concerned with. We are not concerned with that particular factor. For instance, if the price is not low enough the oil will not move in competition with other fields. There are many factors to be taken into consideration.

Q You have heard a great deal of evidence that that might be desired?

A What?

Q That oil would move from other fields rather than this field?

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A That is quite possible.

Q What I am getting at is by restricting the production to the actual market requirements you are in effect, whether it is a good thing or a bad thing I am not saying, but you are making it possible for the Imperial to maintain and fix that field price?

A We are controlling one of the factors that may have a bearing on that field price.

Q And a very important factor?

A Depending on the extent of the excess production that would happen. On the evidence of what might happen it might or might not be that we have to go on is what happened prior to the Conservation Board coming into being.

(Page 13,098 follows.)

Q At which time the Imperial pro-rated practically the entire field?

A And which they may do again if we remove conservation tomorrow.

Q Quite, but nevertheless the wells not controlled by Imperial in those days and if conservation were removed as you have now suggested, could produce to the maximum possible in the interests of efficiency?

A They could but might decide not to.

Q Pardon?

A They could but might decide not to and we couldn't tell.

Q Who may?

A The people you are referring to.

Q Quite but is it not so, that the operator who has his head screwed on correctly and who has his eye to the future, would probably be willing to operate his well on the most efficient basis?

A On the most efficient basis, well have we settled the point that producing at less than a given rate is less efficient than producing at a higher rate, I do not think so.

Q I am suggesting to you that the sound business man owning an oil well and wanting to recover the most possible oil and therefore money from that particular acreage is going to find out if he can the most efficient way of producing the well and then he will produce it on that basis?

A Well that is based on the assumption that there is one particular efficient point, which I do not agree with.

Q Well then, he is going to produce it within ---

A Within the range.

Q Within the efficient range?

A Quite but what point in that range he will occupy will depend upon other factors.

Q Upon his experiments with his well and the adjoining wells?

A And what the market is and what his neighbors are doing.

Q Just before you leave that, what has the market to do with it?

A It has this to do with it, Mr. Mahaffy, if we go back to where we were before we had Government pro-ration, we had pipe-line pro-ration. Now you say there might be one person who has no contract with the owner of the pipe line and he would produce his well at the most efficient place. Well in the first place we have disposed of that. There is the range of efficiency. Now for that person to decide at what point in that range of efficiency he is going to produce, he is not concerned with efficiency because he is going to stay within the range. He is then concerned with what his production is going to do to the field price, if you will, and to many other different factors; for instance if he were to go into the pro-ration by the pipe-line he might be allowed say 200 barrels a day. Now he has to decide whether he is going to produce that 200 barrels a day and stay within his efficiency range or he is going to produce 400 barrels a day and it will depend upon the informations of the operators.

Q Yes?

A Maybe one operator will decide to go into the pro-ration field. Maybe another will decide to produce as much oil as he pleases and still to stay, - unless he is foolish, - within his efficiency range.

Q And providing he has a refinery where that oil can be used and afterwards marketed as refined products, he naturally would want to produce the well at the highest possible point having regard to the efficiency range?

A Yes, either that or some refinery may decide it is better to

pro-rate his wells and buy someone else's oil, that often happens in a field for very good reasons.

Q Mr. Cottle, you said this morning that the major companies, decided that they would sell this oil at the field price plus the pipe line rates?

A Yes, we have Mr. Nolan's statement for that and Mr. Harvie's.

Q Do you realize that after that statement was made, that this 6 cent charge was demanded?

A I do not recall if it was or not, Mr. Mahaffy.

Q Is the Conservation Board prepared to let the matter stand on the basis that the major companies will do what is fair with their competitors?

MR. SMITH: Let what matter? The Conservation Board, as I understand it, sir, have no authority over this matter. I do not know what my learned friend means.

MR. MAHAFFY: I am suggesting that they should have and that they should exercise it.

MR. SMITH: All right. Then your question is not quite right. Do you mean to recommend to the Commission something they should do or should not do?

MR. MAHAFFY: Yes, Mr. Cottle suggested this morning that the Board was not probably concerned with the business of getting this oil distributed and whether it should be, because anybody can go and buy it from the Royalite Oil Company or any of the other major companies at the field price.

MR. SMITH: Yes, I heard him say that.

MR. MAHAFFY: I mean it has been pointed out --

MR. SMITH: I was only referring to your question and that is all.

Q MR. MAHAFFY: In the view of the Conservation Board, are you prepared to let the matter stand at that?

A From the point of view of the Conservation Board I am. The Conservation Board does not wish to act as an arbitrator between the purchasers and the sellers of oil. If anything need be done about it, and I do not subscribe to the suggestion that anything should be done about it, but if something need be done about it, it hould be done by somebody, in my opinion, other than the Conservation Board.

MR. FRAWLEY: Might I suggest that a study of the regulations of the Pipeline Act shows that it already takes care of the whole situation.

MR. MAHAFFY: You are talking over my head, where is it.

MR. FRAWLEY: The Act which was passed pursuant to the recommendations of this Commission dated about the 1st of May, because it made not only the pipelines of the Royalite Oil Company but made your own company's pipelines, wherever they run in Turner Valley, common carriers and subject to the control of the Public Utilities Board so I think, I just make that suggestion, that a careful study of that Statute and the jurisdiction of the Board as a result of that Statute might very well take care of the 6 cent charge that was mentioned. I think it is quite well looked after.

MR. MAHAFFY: Well I subscribe to the view that the Commissioner suggested a few minutes ago, that where you take delivery of that oil and no pipeline is involved, I do not see what jurisdiction the Board will have.

MR. FRAWLEY: Over your pipeline. It

goes in there by a pipeline and that very pipeline of your company would, in my submission, be under the jurisdiction of the Public Utilities Board.

MR. MAHAFFY: Yes, but before it gets there we have to pay the 6 cents, before it gets into our pipeline. Now no regulation of the rate on our pipeline is going to help us on that.

MR. FRAWLEY: No, but it is as I understand it, and perhaps we will come back to that again, it is futile to discuss it without the evidence here, but what Mr. Nolan says, it reaches this Public Utility, the Royalite pipeline in some fashion, whether it is only momentarily or not, then immediately the Board is seized with jurisdiction.

MR. MAHAFFY: No, it never reaches the pipeline.

MR. FRAWLEY: It does not reach the pipeline? Perhaps you do not understand that everything in connection with the pipeline, the tanks, the connecting lines, the valves, all of them become part of the pipeline and is a public utility under that definition in the Pipeline Act.

MAJOR LIPSETT: That is equal to saying that the tanks that the individual wells, which have been put up at the individual wells for the purpose of storing their own oil to be handed over, is part of the pipeline.

MR. MAHAFFY: Would it go that far?

MAJOR LIPSETT: Would your proposition carry you that far?

MR. FRAWLEY: It is well worth looking at.

Whatever the Statute says but if for any amount of time it gets into any part of the Royalite Oil Company's pipelines or gathering system or anything necessarily incidental to this gathering system, I will go that far and I will say it is subject to the jurisdiction of the Public Utilities Board.

MAJOR LIPSETT: The Royalite, of course, as I understand it, is in a dual capacity, first of all it is a producer of oil which as I understand, perhaps wrongly, that they have tanks at their wells in which they put the oil when they bring it up from the well, prior to handing it over to the pipeline and then the second capacity they have the pipeline which takes it from these well tanks.

MR. FRAWLEY: Yes, but Mr. Mayland's company takes it from a central battery of tanks, it is called.

MR. MAHAFFY: No, it is the tanks at the well.

MR. MAYLAND: The production tank.

MR. MAHAFFY: The production tanks right at the well. It is true two wells are hooked to the same tank but it does not make any difference.

MAJOR LIPSETT: It may be just storage.

MR. FRAWLEY: It might just escape, it might just be quite on the line and it might escape the jurisdiction of the Board.

WITNESS: Who does the pumping, Mr. Mahaffy?

MR. MAHAFFY: I do not know who does the

pumping. Who does the pumping, Mr. Mayland?

MR. MAYLAND: We offered to pump the well and that is all.

MR. FRAWLEY: It is idle to discuss it now.

Q MR. MAHAFFY: Now I suppose it is also true and fair to state, Mr. Cottle, that aside from the refinery, being the thing which we have been discussing, that the producer, that is the owner of the well which is cut down to this market requirement level, he is losing the sale of a certain amount of oil?

A To the extent that we curtail production from the well below what the producer wants to produce it at, he is losing something, yes.

MR. SMITH: Postponing it, is it not?

MR. MAHAFFY: Well that is just the problem.

Q MR. MAHAFFY: The fact is that if the well could be produced efficiently at 400 barrels a day and you cut the production to 200 barrels a day, he is losing the sale of 200 barrels a day, is he not?

A Well he is losing the right to produce the 200 barrels a day. I do not know what is implied in the loss of a sale.

Q Assuming he could sell it?

A Yes, that is right.

Q That is right?

A He has not lost the oil of course. He has lost the sale of the oil.

Q Is that not debateable, whether or not he has lost the oil?

A Perhaps it is. I do not know.

Q But in any event the 200 barrels a day in the meantime is being sold by some other concern to take up that slack, is it not?

A Presumably, yes, unless the person who would have bought the oil is buying from some other field.

MR. MAHAFFY: My Lord, there are some things in connection with the statement filed by Mr. Cottle this morning that so far as I am concerned, in order to understand intelligently, I require to discuss them with a competent engineer and I wish to have the privilege, if I may, of having Mr. Cottle recalled to the stand in the next day or so and the privilege of cross-examining him further on those points.

THE CHAIRMAN: Mr. Cottle, in order to do work for us, Mr. Cottle is going East and I am afraid you will have to go into conference with your engineers tonight. We expect to release Mr. Cottle tomorrow night.

MR. MAHAFFY: Anything will be quite satisfactory, sir, and there are also some questions with regard to the production of gas from the gas-cap that I want to discuss with Mr. Cottle too.

THE CHAIRMAN: You can have your conference tonight and your examination in the morning.

MR. MAHAFFY: Yes, that will be quite satisfactory sir. Will tomorrow afternoon be suitable?

MR. FRAWLEY: If you can do it in the morning.

THE CHAIRMAN: I am afraid you will have

to work tonight, Mr. Mahaffy. To my certain knowledge you have done that before.

MR. MAHAFFY: I was just telling Mr. Frawley, sir, that I have a council meeting tonight, which kind of breaks into the evening somewhat. If I could go on tomorrow afternoon that would probably give me a little extra time tomorrow morning.

THE CHAIRMAN: We hoped to be through here with Mr. Cottle tomorrow at noon. How does it affect your plans, Mr. Cottle.

MR. COTTLE: Well I am planning on leaving the city as quickly as I can, at the latest Wednesday night. In the meantime however, I have an enormous amount of work to do and material to gather. Any time that, any additional time that I spend here detracts from the work I am doing of course.

THE CHAIRMAN: Well Mr. Mahaffy, this statement is not very long, of Mr. Cottle's and you have from 4 o'clock today until 11 o'clock tomorrow morning.

MR. MAHAFFY: That will be satisfactory, sir, 11 o'clock tomorrow morning.

THE CHAIRMAN: I am quite sure you can get informed sufficiently for the purposes of cross-examination by then. That in no wise touches upon your leading evidence in support of any views you have, that does not pertain to Mr. Cottle.

MR. MAHAFFY: No, I understand.

THE CHAIRMAN: Mr. Cottle is going East on the business of the Commission and it is important that

he get away for a confereence with Dr. Frey in order to be sure of hearing Dr. Frey at the middle of the next month.

MR. LAHAFFY: Your Lordship probably appreciates, reading some of this report, the method by which they arrive at the rateable allowance. I do not understand it. It will have to be explained to me.

THE CHAIRMAN: Yes, but I do not think it will take very long.

MR. MAHAFFY: I do not know whether I am particularly dense or not but I could not understand it.

THE CHAIRMAN: I think you can be instructed without much difficulty.

MR. MAHAFFY: Yes, I think I can be quickly instructed and it may be that when I am instructed I will have nothing to say about that particular phase of it.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Anything further?

MR. NOLAN: I just want to make one observation if I may, sir. As you know, sir, some time ago I made a statement on behalf of my clients as to what we were prepared to sell oil for to the independent refinery, field prices, pipeline charges and handling charges. So far as I know there has been no deviation from the policy which was enunciated before the Commission at that time, but there has been an entirely new set of circumstances brought to the attention of the Commission where a company is taking delivery of oil at a central tank battery on the lease in the Turner Valley;

that is something which was not brought to our attention at the time we were discussing the pipeline. An offer was made to bring it into the pipeline afterwards, but I would like to make it clear to the Commission and I am sure Mr. Mahaffy did not intend there has been any breach of faith on the part of the company, in adverting to what they have said before this Commission through me as their counsel.

THE CHAIRMAN: I did not understand Mr. Mahaffy to make any such suggestion.

MR. MAHAFFY: The only suggestion I did make in that regard, sir, I do not blame the Royalite, I think they asked too much but that is their privilege, but the only thing I did wish to convey, not that the Royalite should have done something but I do say that the Conservation Board when they put into effect the scheme which they have, should see to it that in the dividing up of that production everybody should get their proportion or the amount of oil that they are entitled to at the same rate. If they say to us "You cannot produce it from your own well but you are entitled to get it from Mr. Nolan's well", then we are entitled or we should be entitled to get it from Mr. Nolan's well at the field price and if the Board wants to restrict production to market requirements they should see to it that that corollary is enforced and carried out.

MR. PLOTKINS: May I ask Mr. Cottle a few questions?

THE CHAIRMAN: Yes.

Q MR. PLOTKINS: Mr. Cottle, I want to get

a little better understanding of the conception of the board as to its duties, the Act explicitly directs the Board to affect conservation by burdening them with the duty of so directing operatings that no wasteful method of production will be permitted, is that a correct understanding?

A No, it does not say that, Mr. Plotkins.

Q Is that your conception of the duties of the Board, one of its duties?

A I said in my statement that the primary object of the Conservation Board is to regulate the production of individual oil wells in such a manner as to ensure a reasonably efficient operation of the field.

Q Reasonably efficiert?

A Yes.

Q Efficient in the light of what?

A Efficient in the light of the things we have in mind.

Q What is your conception as to the burden of the Act that it places on you?

A I do not think it matters what my conception is. The Act is very clear "The intent, purpose and object of this Act is to effect the conservation of oil resources and gas resources or both".

Q Yes?

A "By the cortrol or regulation of the production of oil or gas or both".

Q Surely. By regulation of the production?

A That is right.

Q So as to prevent waste, is that one of the conceptions?

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A Well that is right, to prevent waste is the same as saying to conserve, I presume.

Q So that in practice, to prevent waste and get the most production out of that field, because that is your ultimate object, is it not, to get the most oil out of that particular area, is it not, to recover the greatest amount of oil out of that reservoir?

A Well that is the object.

Q Yes, and to obtain that, then your conception is you must prevent each individual well from wasteful methods which would permit them to take oil out that would effect the whole field?

A I would say that we must see to it that each individual well is operated with reasonable efficiency.

Q With reasonable efficiency?

A And without any unreasonable waste, which would be the same thing.

Q That means that you are going to see that each well only takes out its proper share of oil and its proper share of gas, in relation to the whole?

A That is right.

Q Now there is no dispute as to that function of the Board, of enforcing rateable withdrawal from the field?

A That is right.

Q But when we come to determing the withdrawal that is where the difficulties arise, I mean you are then faced with what amount of oil you will permit the field to produce, is that not correct?

A Are you speaking of each well.

Q No, the field as a whole?

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A Yes.

Q And when you get to that stage then you are up against the problem as to what you will fix as to the amount of oil which will be produced from that field?

A From day to day.

Q Yes, and that problem, you endeavour to solve by informing yourselves as to the probable requirements of the purchasers?

A That is right.

Q And you have no means of determining whether the purchasers will give you a figure that will reflect their market conditions from day to day or whether it will reflect any other conditions they may have in mind?

A We do not care whether it reflects their market conditions or any other condition. All we are concerned with is whether or not they are going to take delivery of the oil. If they are our concern ceases.

Q So that if that is all you are concerned with, a company can nominate whatever it sees fit and you will accept that, within reason?

A Within reason. You say "Will nominate whatever it sees fit", the business of nominating is merely to inform the Board how much oil is likely to be taken?

Q Yes, that is for the information of the Board because that is the basis of determining your allowables?

A Quite.

Q So it is very vital to the Board?

A Yes.

Q Now in the light of that situation, if the Board interferes with the nominations or the amounts that each company has named, by saying "Well now we do not believe

they will take that much", or "We believe they will take more", because as I understand you, you do not accept these nominations, you use your own judgment when you come to totalling them up?

A Oh, we always use our own judgment. As I say all the nominations so called are indications of what may happen and with that information and with the benefit of statistics which we have from previous years and with our own general knowledge of what is going on, we decide that a certain figure will answer all requirements.

Q Yes, so that it is possible and it has in fact happened in the past where we will say the companies can nominate 25000 barrels per day for a given period and the Board has cut it down to 22,000?

A That has happened in the past.

Q Yes?

A Yes.

Q So that what you do, not only do you attempt to forecast the demand for what the companies will take but you also attempt to interfere or at least to weigh, is probably the right way to express it, to weigh the judgment of the companies in the matter of how much will be their future requirements?

A No, we have never got to forecasting. We never attempt to forecast, Mr. Plotkins, we use our best judgment. We use our best judgment to do it. We are not trying to test the judgment of the people who tell us they are going to use so much oil. All we are interested in is to find out to the best of our ability what the probable requirements from the field are going to be and we use

whatever means we see fit to arrive at that figure without in any way trying to restrict it or trying to prevent people from getting oil or trying to force people to take too much oil.

Q But what I am getting at, there may be a weakness in your method of determining the allowables?

A Well what is it?

Q What I have in mind is this, If you can so do, and you have in fact taken on yourselves to reduce the nominations by whatever sum it might be, however small, you are then disregarding anything that individual refineries may have taken into consideration when they made the nomination because as you realize in the refineries, we have to accumulate refinery stock, we have to accumulate a certain amount of crude, because we anticipate a shut-down for cleaning purposes and we may want to increase our through-put in a certain period to provide for the time when we shut down, so that if you attempt to weigh these matters or if you are not familiar with them or ignorant of them or you cut down the allowables to take care of what you think will be the probable requirements, and is that not the reason for what happened here a short time ago when the Imperial said "Well we would like to supply you but our tanks are empty and we are going to take care of ourselves first and if there is any surplus you can have it", I am just telling you what happened to us and I would like to know your views about it?

A Did that happen to you?

Q Yes, it happened to us? (Question continued on next page)

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Q I may say for your information so that you may give us an intelligent answer, I might relate the circumstance. A short time ago, I think it was about six weeks ago, the Imperial Company 'phoned me up personally - in fact it was Mr. Coultis - and said "I am very sorry to inform you but it looks like we are going to have to discontinue shipping you crude because we have reached the stage where our tanks are empty and we are scraping the bottom, and naturally we are not going to give you our oil unless we are supplied first." That was his words. That was probably correct. I do not know. I have no means of knowing whether it was or not. But those were the facts. There was no question of price or anything except availability. In the light of that is it possible that your method of determining allowables has failed to take into consideration certain situations that must of necessity be taken into account by the refineries?

A No, I would not think so because I know of no reason why the person supplying you oil did not have ample oil to supply you with. If it did not have ample oil to supply you with they did not make known their needs to us properly because we were at all times willing to see that sufficient oil was supplied to meet everyone's reasonable requirement.

Q How can you say that you are at all times willing to see that sufficient oil is available because once you have made an allowable you do not concern yourself with seeing whether we get our requirements or not?

A If we find people are not getting their requirements we will issue a new order the next day.

Q The next day?

A Yes, if there is any need for it.

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Q Mr. Coultis added in that conversation, I said to him "All there is to do is for you to get more oil from the field, the right to produce more oil." "Yes', he said, 'that will take some time. That is correct.' He said 'We cannot increase our pumping and so on overnight and all these things must be weighed ahead of time." You cannot change an organization like the Royalite pipe line. They cannot change in twenty minutes. It takes time. So I am just asking your views as to why you should conceive it your duty to cut down the requirements or figures that the different refineries have given to the Board as to their requirements.

A Are you suggesting that we make a practice of cutting down the estimate?

Q No.

A What I meant by that was this, Mr. Plotkins. In the past people have informed us they are going to take 1,000 barrels a day and we will put 1,000 barrels a day in our allowable of take care of it. Then we find out they only take 400 barrels a day. That happens on several different occasions and the first thing we know we begin to discount what some people tell us and often it is the reverse. They will say that they want 1,000 and something unforeseen happens and they take 500. The immediate result is that somebody's tanks get low or get too full and the next result is we see to it that that is adjusted to meet the requirements. I would not subscribe to your suggestion that there is any weakness about it. As far as any storage stocks, the Imperial were never so low that you could not have been supplied and that is the first I have known you were not able to get your supplies, personally.

Q You say that there was some individual that would nominate

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1,000 barrels and only take 500. I want to give you some information for you to use in giving us some practical answers as to the problems the Board is faced with. In order for a company like ours where we have no storage available, that is no big amount of storage to take care of its immediate requirements and when I say "immediate" I mean sixty days, we have to at certain times of the year anticipate requirements and nominate higher than we will use that month so as to accumulate in the storage tanks of the Imperial, which is the one that supplies us, a reserve; now, that reserve may not come to us that month but in the course of the next month or forty days or sixty days it will reach us and it will be available for us in their tanks. So that the fact that we nominate 500 barrels in a given month and only take 300 we will say, does not mean that we are not prepared to take the 300 or the 500, it just means that we are adjusting ourselves to the point that the Board has created where they weigh the demand and supply so close that we have no means of accumulating a little reserve except through that method. So that in the light of that would you say that your Board is justified because our company or some other company nominates a little more than their absolute current requirements, would that justify your Board the next time we make a nomination to discount it?

A Maybe it would not. The job the Board has to do is to estimate or guess, use any word you wish, how much oil is going to be taken out of the field. But we do the best we can. As far as you are concerned personally, Mr. Plotkins, I think I can say that every time we found out from you how much oil you were going to take we put you in the list of the requirements at the figure you gave us.

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Q At which?

A At the figure you gave us. I do not think we have ever discounted what you have said about it. Further than that, we do not take each individual person. What we do, we take the more substantial figures and allow a round sum. We allow a round sum which we are reasonably sure will take care of all requirements. We do not try and make it balance to the barrel or even 100 barrels a day because we know there is sufficient leeway in storage that if it is 100 barrels a day too low or too high it does not make much difference.

Q What you are saying now is as far as the Board is concerned they make ample provision to take care of the refineries?

A Certainly, and that is done at all times.

Q So we must look elsewhere for a situation like that that arises?

A If you were unable to get your requirement at any time the fault would not lie with the Conservation Board.

Q That is just one of the points I want to draw the Board's attention to and your attention to. If that is so then it goes without saying that the largest producer and the pipe line is in a position itself to regulate the supply and demand apart from the Board's order.

A The pipe line may, I presume, apart from the Board's order. If there were no Board at all the pipe line might exercise some function in that respect.

Q And there is nothing as far as you know of to stop them from doing that?

A No.

Q They could nominate, I mean they could waive all the requirements of the market and arrange their nomination so as to

balance their stock and everybody else's stock?

A As a matter of fact, that is done to a great extent. For instance, we do not take nominations. I say we do not take nominations, we do not take any nominations because, in my judgment, the word "nomination" is an improper one. We do not take the individual refineries in Saskatchewan and find out what oil they are going to take. We have to guess and in guessing we use the judgment of people in the best position to know and these people are either the Imperial or Gas & Oil Products or yourself. Any one who happens to be shipping to other people and have some reason to know what their probable needs are. If we set figures that are too low then we increase the figure. If we set the figure too high we will decrease it by a subsequent schedule.

Q So am I fair in suggesting that the pipe line, or the Royalite Oil Company or the Imperial could themselves create a condition that would make it, that would bring about a situation where there would be very little oil left in reserve.

MR. SMITH: I wonder if that is a fair question to ask this witness by any stretch of the imagination, having regard to the wide limits of cross-examination. Mr. Cottle is here and has told us all the Board does and gave his reason. We have asked a certain hypothetical case that would permit of some individual doing a certain thing or other. It is a matter of reasoning. It is not a case of cross-examination and particularly of a public officer.

MR. PLOTKINS: The reason I asked that question is because of the fact that the Board determines or attempts to determine the probable demand and they create a condition

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where some refineries or all of them may take advantage of that situation and balance up or make a very close relationship between supply and demand and thereby maintain prices or prevent competition.

THE CHAIRMAN: It is quite open to you to argue that before us. It is quite open to us to make any inference we see fit. As I have said before, we won't make any witness, other than one who poses as an expert, draw conclusions of fact.

Q MR. PLOTKINS: Where do you consider, Mr. Cottle, that you get the authority in the present Act to weigh the market and regulate production accordingly?

MR. SMITH: I am going to object to that. Surely that is purely a legal matter as to whether or not the Board has exceeded its authority.

THE CHAIRMAN: Yes. I have had in mind for some time asking Mr. Frawley, and I will now to obviate this, where do you find here the authority of this Board to prorate to market?

MR. FRAWLEY: I am quite willing to give some thought to it and address myself to you, Mr. Chairman. But, of course, I am not appearing for the Board.

THE CHAIRMAN: No, but you are appearing for our assistance.

MR. FRAWLEY: Yes, and I must help you all I can.

THE CHAIRMAN: Would you mind telling me - Mr. Smith no doubt will argue the case when it comes for argument - is it a matter of inference from the words used?

MR. SMITH: That is all.

MR. FRAWLEY: There is no question about that.

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You will find no authority to the Board to have regard to the market at any time. That section, I may say, was deliberately left out, from what I know of the building of this Act, was deliberately left out of the current Statute. Therefore, one finds everything that the Board has by way of powers pretty well in Section 3 of the Act and in Section 16?

A And in Section 13.

Q That is incidental, yes. That is the general powers of the Board. "And for that purpose to do all and any acts and things which are necessary for or incidental to the performance, execution or carrying out of any such duty, power or function." You have to find out the power or function.

THE CHAIRMAN: You have to go to the object of your Act, which is conservation. So o justify pro-ration to market, you have to associate it with conservation.

MR. FRAWLEY: Any reference to market or having any concern with market must only be such as to assist the Board and incidental to the Board in carrying out. its functions, namely, conserving oil and gas resources in Turner Valley?

A I can say this in that respect, leaving aside the word "market" and dealing only with the word "pro-rate", the Board knows of no method by which it could accomplish its scheme of conservation without pro-ration, pro-ration of total production.

Q THE CHAIRMAN: Why?

A For the simple reason that the individual allowable of each well must, in the Board's judgment, be related to the individual allowable of each other well in proportion to the individual characteristics of each well, which gives you a proportion. You could not effect proportion without

having pro-ration.

Q Why? I suppose it is a matter of engineering. You are concerned with what you are withdrawing from the field, not how many wells are withdrawing, and to keep the balance of equalibrium?

A As a matter of engineering we are concerned with the individual characteristics of each well and with the amount that is withdrawn from each piece of property and each well. In order to accomplish that I know of no means other than a basis of operation similar to the formula I have explained. What is it we pro-rate? We pro-rate the total production. We determine the total production from the market. Hence, it may be said we pro-rate to market. But the words "pro-ration" and "conservation" are not separable. The word "market", of course, is. We could pro-rate instead of to market to something more or something less than the market, but as a matter of practical application we can see no purpose in pro-rating any more oil than is going to be used.

Q It is pro-rating to market whether you think so or not. If I understand the evidence it is just exactly what you are doing. You find out what the demand is as far as you can and them you divide it up amongst those who are interested in supplying the demand in accordance with certain procedure which has been outlined.

MR. FRAWLEY: So long as there is no conflict with good engineering practice. The point of conflict has not been reached.

THE CHAIRMAN: Quite so. I say if you have two holes side by side, will you tell me what it has to do with engineering whether the oil that is allowed that area comes out of the two holes or one, whether owned by two people or

one?

A Well, my understnading of the engineering is if you have two wells you would have each of them under normal circumstances produce. It may be that one of those wells is one that good engineering would say should be closed up. I do not know of any such well. But certainly it is the opinion of the Board you would have to have rateable withdrawal from each of those wells in order to produce that field, which now comprises only two wells, to have it produce efficiently so as to recover the most ultimate oil. So that whatever the total amount of oil is produced by those two wells must be produced by each rateably. That is the engineering advice which we have from these experts.

Q MR. COMMISSIONER LIPSETT: Would that apply in the case, for instance, if the Royalite Oil Company had two wells on two adjoining 40 acre sections and that either one of them would give them their full allowable according to the market, would you still say they would have to go to the expense of keeping both wells open, or could they shut in one?

A That would depend on the individual circumstances and individual characteristics of each well. It is altogether possible we would insist on each well being produced rather than shutting one down. On the other hand, other circumstances might draw us to the conclusion that one of the wells might shut down, as indeed a number of wells are shut down in the gas-cap. But in the gas-cap we won't allow the gas to be taken out of one part of the field and the other part shut in completely. It creates low pressure areas.

Q That is a rather different consideration?

A Gas-cap to oil. Well, it is different because the circumstances

are different. But we would have to deal with each set of circumstances on its own merits. At the moment we have had no application before us for permission to shut one well down and produce the conbined allowable of two wells from one. There might be some merit to the suggestion but we have not yet had to deal with it.

THE CHAIRMAN: At the moment, Mr. Frawley, it strikes me that efficient withdrawal from the pool is one thing, within the range that it is considered efficient, that is one thing, and that is the way that would be best operated by the individual owner to conserve an asset that is his. Being fair as between owners in a divided pool, having regard to the market demands it seems to me another thing and the one may be as important as the other. The two, perhaps, should be associated in all conservation schemes but I am hoping to get light as to how they are under this Act which I have just read.

Q MR. FRAWLEY: Do you see a relationship between rateable withdrawal between two wells----

THE CHAIRMAN: No, I would think that rateable withdrawal to meet market demands in respect of drilled wells may prove to be quite inefficient if they were not so spaced and so related to each other and to the pool as a whole to allow the most efficient withdrawal from the point of conservation. From the social aspect it is something quite different again as to what is just and all just, very different, as between owners in the pool in this Province, with which this Provincial Government is concerned no doubt. You see, a conservation scheme as I see it is one thing and it may be so enlarged as to embrace social aspects and

endeavour to see to it that there is equity as between all parties interested in the pool, but I say they are definitely not the same, and it is a confusion of thought to try and make them the same.

MR. FRAWLEY: Are they not inter-dependent. Do you not think that a total disregard of the equities as we have been using might very pertinently affect the new conservation of the field. In my submission it seems to me if the Board totally disregarded-----

THE CHAIRMAN: If the Board said "This is efficient production" and they decided that for themselves from this pool, they need not care insofar as production goes one iota what the market demand is or how it is to be supplied, or by whom.

MR. FRAWLEY: Except if they continued to be indifferent and left the production; well,a good example is left it at to-day's production of 22,000 or 23,000 barrels and left it there indefinitely and said they would not look at it till next Spring, as soon as the demand went down to about 10,000 barrels the Board says "We know perfectly well in a short time a well that we gave 200 barrels to on the 23,000 total allowable would not produce the 200 barrels and could not produce unless they want to allow the oil to run down the gutter." They would not produce more than 50. As soon as that happens we have a number of these 200 barrel wells producing at 50. Then we have, perhaps, some of Mr. Mahaffy's clients over here that are able to produce up to 200 on Mr. Cottle's present allowable, and then Mr. Cottle says "That is unrateable withdrawal. That is dissipation of energy."

THE CHAIRMAN: That is the same as saying that

the Board is charged with the responsibility of seeing that those who are allowed to produce do produce.

MR. FRAWLEY: Probably. My point is that Your Lordship says whether social or socialogical or judicial they are related to dissipation of energy and upsetting the equilibrium. Am I putting it rightly?

A We think so. We do not think of these things as being social.

Q Whatever they are.

A What we do is this, we try to keep equilibrium in the production rate in the field. Suppose, as Mr. Frawley said, we have what we considered to be efficient production at 23,000 barrels per day. The efficiency of that rate of production depends upon each well producing in a certain way according to the result of the formula we use. Now, if the total demand for oil goes down to 10,000 barrels a day the withdrawal over a period of 23,000 barrels a day is not going to be produced unless, of course, we see to it that it is going to be produced and not being in the position of managing tank farms and what not, we certainly cannot see it was going to be produced. We do not buy any oil so we cannot see it is going to be produced, and knowing it won't be produced we know inevitably that 23,000 barrels per day is not going to be the total rate of production of the field and that individual wells are not going to produce at the rate upon which our efficiency is predicated. That being so, we might just as well face the situation when we see the demand go down because we are going to have to face it sooner or later anyway. If we found a condition, for instance, today, and supposing we had no pro-ration whatever today and we found half the wells in Turner Valley producing and the other

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half not producing it might be the first thing we would do would be to step in and see that each well produced something and produced something rateably to the various characteristics of those wells. That would be the first step we would take. We avoid having to take that step by keeping the situation in hand and keeping as constant a state of equilibrium from the outset. We think our formula evaluates these different characteristics of efficiency.

MR. FRAWLEY: Your Lordship sees two conflicting objectives; one that the Board should be concerned with and one it seems to me Your Lordship thinks they should not be concerned with. My difficulty at the moment is-----

THE CHAIRMAN: I think, perhaps, the Board should be concerned with both, very much. I am putting it to you as counsel to the Commission, have they the power under the Act to do what they have?

MR. FRAWLEY: Oh.

THE CHAIRMAN: Or are they going out of their way to do something that they have not the slightest authority to do?

MR. FRAWLEY: That is a large question and I am mindful of the situation of the British North America Act and a lot of those things. But at the moment I would not like to say as to whether the Act says so and so.

THE CHAIRMAN: I am not even considering whether the Act if it embraced something more would be constitutional, and if it embraced something more it were unconstitutional. Then the inference of the Board from an Act which does not mention it is equally bad.

MR. FRAWLEY: Hiding their heads.

THE CHAIRMAN: I was not discussing the constitutional question. I was wondering if a recommendation

was not to be, if we are to embrace the social as well as the conservation feature of the conservation scheme so-called elsewhere, if we have not to recommend an enlargement of the powers of this Act and leaving to the officers of the law to decide whether it would be constitutional. That is what is presently concerning me, why it is good engineering practice to determine how and where and when there shall be withdrawal from the pool but leave who gets most oil out of that pool ultimately and is not concerned with the market demand, whether all be pulled out this year or next month or when. But other forces come into play and to protect those people in the pool and protect the investment it might be quite well said that you must not think of this under the rule of capture. You must think of it as the law in force to see that everybody has a share of the common pool, so we are going to regulate this so that you will all get your fair share according to the yard-stick that we think is a just one. That is another thing and the right thing, no doubt. But I am curious to know how this Board without anything in this Act that seems to say that, unless Mr. Smith can convince us by inference it does, is assuming the power.

MR. SMITH: I accept a good deal of responsibility in the drafting of it, Sir.

THE CHAIRMAN: It leaves out the express words.

MR. MAHAFFY: There are several factors behind this thing. As Your Lordship may remember, an agreement was made between the Provincial Government and the Dominion Government at the time the natural resources were transferred and that agreement contains certain clauses saying what the rights of the Province be with respect to these natural resources. The agreement was subsequently amended. By the

way, before it was amended the Spooner case went to the Supreme Court of Canada, holding the 1932 Act unconstitutional. Largely because it exceeded the powers given the Province in that agreement:

MR. FRAWLEY: Only because of that.

MR. MAHAFFY: That was the main one. Then the agreement between the Province and the Dominion was amended and in the Spring of 1938 the new Conservation Act was passed, drafted by my learned friends or some of them, I do not know who, which actually provided and gave the Board the right to pro-rate to market, and that was one of the principal grounds on which we attacked that Act in the Courts, because there was no right given to the Province to pro-rate production from these Government leases to market, under their agreement with the Dominion Government. They were given the right to put into effect a conservation scheme.

MR. SMITH: You also attacked it on the additional ground that the Legislature had no authority anyway.

MR. MAHAFFY: There were several grounds of attack and that was one of them. My learned friend Mr. Smith apparently advised the Legislature to pass a new Act. As far as I can see when you get down to the meat of this thing all you do when you get down to Section 3 is to copy the wording of the agreement between the Province and the Dominion, namely, that the effect of the Act is to effect conservation of oil and gas resources or both in the Province by the control or regulation of the production of oil or gas or both, whether by restriction or prohibition and whether generally or with respect to any specified area or any specified well or wells or by re-pressuring of any oil field,

gas field or oil-gas field and, incidentally thereto, providing for the compulsory purchase of any well or wells." That is the wording in the amending agreement between the Province and the Dominion and that says nothing about the power to pro-rate to market. Then in Section 15, or 16 rather, my learned friend recites in his new Statute that "in order to effect the intent, purpose and object of this Act," which is set forth in Clause 3, - "the Board is authorized and empowered with the approval of the Lieutenant-Governor-in-Council to control and regulate the production of petroleum, either by restriction or prohibition or both, and so on and so forth."

THE CHAIRMAN: Surely relating back to conservation.

MR. MAHAFFY: To conservation. I am going back then to the agreement which I have mentioned, my learned friend by this Statute endeavoured to get away back from this idea of pro-rating to market. He says absolutely nothing about it. He tried to side-step that, and I say "side-step" without any malice.

MR. SMITH: Don't worry. I have had some troubles, as you know.

MR. MAHAFFY: Nevertheless, we find the new Board under the second Conservation Act, the existing Conservation Act, doing the same things in exactly the same menner as they did under the Act which was cast in the ash-can. They are still carrying on all their operations on the basis of what will the market take and not on the basis of what is the best type of conservation and how much should the field produce to supply the market requirements and let everybody----

MR. SMITH: I have agreed with everything up to the last statement.

MR. MAHAFFY: If the market requirement goes up to 100,000 barrels a day it is going to be interesting to see whether they will allow the field to produce it. Certainly there has been no indication yet. Mr. Cottle said this morning he did not know where the most efficient production point was.

THE CHAIRMAN: You see, Mr. Frawley, if I am right in the thought that I only hold for the moment, there is something in this Act that says you can pro-rate to market and that to be equitable should be in the exercise of its discretion perhaps a wise one and, perhaps also, a mistaken one, as deciding that they will do equity between parties, perhaps, as Mr. Cottle suggests, in order that it might not adversely affect the pool as a whole, still it would not appear now, and this is not a criticism of what has been done but it is a query as to whether there is the power to do that which has been done in the body that is doing it. If there is not the power in the end we might be prepared to say the authority should be provided and I am mentioning it now because we also might say it should not be provided on the basis on which you are now putting it. It should not in the name of doing equity allow inequities to arise, and if you are going to do this you have to take some more power and deal with it as if it was a unit operation, so that everybody gets his share.

MR. FRAWLEY: Yes, I follow what Your Lordship says.

THE CHAIRMAN: It is a very involved and difficult thing, as I see it.

MR. SMITH: It is, and the Conservation Board

will welcome, I am sure, any suggestions this Board can make to get us out of what is apparently a very decided difficulty. I have been wrestling with it for some months. It is a real problem.

(Page 13,132 follows.)

THE CHAIRMAN: Mr. Mahaffy's suggestion then raises a difficulty which rises unquestionably in good faith on the part of the Board but I do not think that it should be just pooh-poohed away.

MR. SMITH: I admit his question, sir, and I always thought so but I think by the time the Board has come to examining the various alternative things which may be done and particularly having regard to the somewhat limited power of various people to do these things, in other words this Board tried to bring about conservation, to put in a scheme, what they thought was a successful thing. Mr. Mahaffy put it very fairly, we had an Act, I had nothing to do with the drawing of that, it came from elsewhere and I think many elsewheres, where the jurisdictional difficulties or the jurisdictional conditions were not the same as they were here. Now I knew for example that the minute we got into inter-Provincial trade we would immediately be in trouble and we gave it consideration, with the assistance of many people, Mr. Andrew Smith, Mr. Gray, Mr. Frawley, Dean Weir, this was not done hurriedly, we did work very hard to try and get what we were all seeking, at least what we thought everybody would want, within the powers which we had.

THE CHAIRMAN: From the standpoint of conservation.

MR. SMITH: I am just telling you my reasons.

THE CHAIRMAN: In the carrying out of the conservation if you pro-rate the market and have not the power, your Act is still good and your draftsmanship is excellent.

MR. SMITH: It is at least simple.

THE CHAIRMAN: But your Board has exceeded the power which the Act gives.

MR. SMITH: Of course the minute you get into that, that we exceeded the powers, you must assume that these things which are happening are something more than incidentals for the Commission's purpose, and you have to go a long way to do that; I do not think you can immediately divorce the engineering problem, a s Your Lordship called it, and the business problem or the social problem, whatever it may be, the question of equities, because as Mr. Cottle points out, carrying it far enough, the things which may happen you get right back to your engineering problem again.because you may run into wasteful, - I like Mr. Plotkins' expression, - a wasteful method of producing that field.

THE CHAIRMAN: I think any proper conservation scheme must consider both. I say conservation scheme because that is what they are usually called.

MR. SMITH: Yes.

THE CHAIRMAN: Any scheme which has to do with the production of oil from a poolhas it seems to me both conservation and sociological aspects, - the name "conservation" is only a name in the United States at least as applied to a pool but I am querying and querying only and it is better to query it now than when I am writing the report, I am querying whether or not when they are given the power of conservation only, the method which Mr. Cottle justifies of pro-ration to market is that fair?

MR. SMITH: Oh, many people expressed that view.

THE CHAIRMAN: If it is not, you may be brought back to the point where somebody will say for conservation purposes, surely your market can be disregarded in its

entirety and say this field can only be produced in certain ways and that will be from an engineering standpoint, and from the standpoint of engineers that may be quite right, and a correct way of withdrawal of all the oil from this pool and they may say no matter what social or economic difficulties there may be, that is proper engineering but then a person concerned with the whole problem and not just the engineering problem says, "Oh, yes, but there are other aspects and you have to deal with those too", and I wonder if that is not a second problem, and that these two problems must both be met at one time.

MR. SMITH: Well, of course, on the legal side I go much further than Your Lordship does and I say this, that all this Act says to A, B, or C, "you may take so much oil out of a given hole" or "you may not" but that is solely within the competence of the Legislature of this Province to say so and it ends there, so far as the Statute is concerned in any event.

Now coming to what Your Lordship then said as to things that flow from that, why we do it and so on, of course all I can do there, at least all we can do is to protect purselves as best we can having regard to what we all thought was a desirable object and having regard to the many legal difficulties which were in our path and that, shortly put, is how this thing was born.

THE CHAIRMAN: Well I suppose really it is a subject to which Dr. Frey will direct his attention, Mr. Frawley?

MR. FRAWLEY: I have no doubt he will.

THE CHAIRMAN: You will call his attention to such matters?

MR. FRAWLEY: I will, and I think he can make useful observations to the Commission on these subjects.

THE CHAIRMAN: It has a very direct bearing or we would not have asked Mr. Cottle to appear as a Witness. It has a very great bearing on the cost of production, and not only on the cost of production but on the cost of refining.

MR. FRAWLEY: Yes, your Lordship touches a point there ----

MR. SMITH: Excuse me, I was hoping Dr. Frey would go much further, I was hoping Dr. Frey would tell this Board from his experience what happens when you have no conservation. It is even obvious to the layman like myself and it is said by many people that the independent producers, - and I was glad to see Mr. Mahaffy pursue some cross-examination of Mr. Cottle on that ground, - no one is going to suggest that pro-ration is a panacea for all ills. It is not. There are some objectionable things about it and one of them is what Mr. Mahaffy has brought out. A company which I have been interested in, if we had not the money we cannot maintain our share position in the field, if we cannot drill as fast as our neighbors. That is perfectly plain to everybody and the only answer to these smaller companies who cannot keep up is broader markets and I was hoping that Dr. Frey would also deal with these other problems, take these various situations which have been suggested in cross-examination of Mr. Cottle, and that is having a lot of oil above the ground because many people have had experience with that, and I think he might be of great assistance to us . Then he probably will also tell us, if we had no conservation and A has a million dollars and so-and-so has a thousand, who is going to win out in the competition?

THE CHAIRMAN: It would seem that where one well can produce without injury to that well and to the property immediately surrounding it, - it would strike one that it would need to be established as a fact if he were doing harm to the other property and was to be restricted.

MR. SMITH: If there was no injury to the other properties surrounding it, I could go a long way with you but I think that is one thing, I have not heard all of this but I have heard some of it, I think that is one thing that is very far bfrom being established, and the best judgment I have been able to form is that there is one pool, not pool perhaps but body intermeshed with one another, and while the movement is awfully slow nevertheless there is movement and I thought the Commission had been regarding it as largely one area. I may be quite wrong because I have not been here for some time.

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F. G. Cottle

THE CHAIRMAN: Conservation methods have been in little use, not just here in Canada, they are only a hybrid thing super-imposed upon the rule of capture wherever you have a divided pool. That is all they are.

MR. SMITH: I think they do away with the law of capture completely.

THE CHAIRMAN: Only where you have a divided pool. If it was not for the rule of capture still obtaining they would not have to drill offset wells. We still have got the rule of capture unfortunately, and that is one of the things we will have to worry about some day. Can it be obviated in some way? Perhaps not. But my immediate question is, we have heard a lot today about pro-rating to the market, have we got it here, and the authority for it.

MR. SMITH: There is not a word about pro-rating to market, not unless it is incidental. There is no doubt about that.

THE CHAIRMAN: It boils down to this. You say, speaking for the Board, Mr. Smith will contend it is incidental to Conservation to pro-rate to the market.

MR. FRAWLEY. No, but it is the pith and substance. It is a proper conservation order but the other is just an incident thereto.

THE CHAIRMAN: I suggest to you it is a matter dealing with equities that perhaps the Board is not empowered to deal with, but that if it has it cannot do equity without having a careful regard that at the moment of seemingly doing equity it is not doing inequity to any one person.

F. G. Cottle

MR. SMITH: I do not think there is any doubt about that.

MR. PLOTKINS: You see the trouble I had with the situation was not an engineering problem. There is no doubt the Board is quite capable of determining a condition. At least their best guess will come pretty close to the situation. When the Board attempts to direct the market to the production then they enter into an economic phase that has influence on the value of the properties in the Valley and to the refiners, marketing companies and to the public in general and where the trouble as I see it comes in is with the range that the Board has given itself as to what surplus will be allowed on top of the ground. In other words the elasticity of the difference between the demand and the production is too small and one of the things that seems to hurt the Board is that there may be too much reserve for which there will be no storage or tankage available. Well now again they are entering or weighing a factor that only the companies themselves can determine because I am in a position where I may say to myself rather than influence the price of refined products up and down, in other words in other rather than have an unstable market I may be better off to invest a certain sum of money in storage so as to do exactly the opposite of what the Board thinks storage does and that is I may accummulate sufficient reserves so as to stabilize the market instead of distorting it or disrupting it. Because the Board up till now has taken the view that storage disrupts price.

MR. SMITH: No.

A That is not right.

MR. SMITH: Mr. Cottle has said they

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F. G. Cottle

A We have never at any time curtailed the
of
of Turner Valley because we have felt there was too much oil above ground.

MR. MAHAFFY: I think it is only fair to say I can certainly corroborate what Mr. Plotkins has said insofar as the views expressed by the Chairman of the Board is concerned only last Fall, because, Mr. Smith, you will remember very distinctly Mr. Knode told the Legislature - and you were there - that he was absolutely and unalterably opposed to having any storage of oil. I think that is putting it clearly.

MR. SMITH: What he said was he was opposed to having excess storage. What Mr. Cottle has said before the Commission under oath is that his Board has never, having regard to available storage facilities, has never at any time done anything to lessen the amount the individuals care to store in their storage tanks.

Q That is what you said?

A That is correct.

F. G. Cottle

MR. PLOTKINS: That is true, Mr. Smith, I believe that the Board has never directly attempted to regulate the amount of storage.

WITNESS: Nor indirectly, Mr. Plotkins.

MR. PLOTKINS: But because of the system under which the Board attempts to dictate or to determine the amount of production that will be allowed, it gives the major companies an opportunity to put in their economic theories and one of them, and it is general throughout North America with the big companies and probably logical for the big company, that the oil is better stored in the ground than above the ground because it is always available and it is more economical and I have no doubt from the big company's standpoint and from the economics involved in a large company it is sound but why, because from the large company's standpoint, having the power to arrange a division of the market for their competitors, they are able to maintain prices or to dictate economic competition in the petroleum products' business, but when it comes to the smaller companies, either local or national maintaining their position as against the international companies, the picture is different; it is the very fact that they have no storage and the large companies can creat an artificial scarcity that permits them to manipulate the prices up and down, which forces on us the obligation of protecting ourselves by building up storage so that if suddenly the other companies want more money or less money, we are able to carry on in our even tenor, disregarding temporary fluctuations. Now that is the picture of the local or the national company in relation to the big international company, so that in effect the Board in adopting that policy

is permitting the major companies to carry out their own programmes to their own benefit and I believe it is against the best interests of the Province and of the industry as a whole.

Now there is no doubt that the Board must relate production to something. I have no doubt, no matter what kind of system is adopted, it must be related to something.

Now in view of the fact that we know approximately the market, the annual market, for this Turner Valley crude, the Board is in a position to provide a range that will permit forcing them, - in other words it will permit the producers as well as the major companies, because they will be forced to do so by the action of the independents, to push their oil further and further into the markets. Why? Because the pressure of the production will force them. In other words it will make it possible, if the Board permitted us to follow a policy such as they have lately, where they allow 450,000 barrels, according to the Press, to accumulate, if they continue that policy the independents will naturally be in a position then to have storage and accumulate stocks for themselves, what will they do, they will go into Manitoba, they will go wherever it is possible to sell crude and then the Imperial and the B. A. or any other company in order to maintain their share of the market will go in and compete with us and thereby push out the others whereby we will benefit. Now on account of the independents being unable to accumulate storage, or were unable to, the Imperial and other companies just assigned themselves whatever market they saw fit and there was no one to prevent

them, where now if the storage is accumulated and the Imperial decides they do not want to supply Manitoba with Canadian crude, the independent producer that has some accumulated, he may say, "Well, I am going to supply them" and therefore the Imperial will be forced to compete with them whereby they do not compete with them now. They just say, " we will not supply them" and they will not let anybody else supply them. They do not say that, but the position the Board has taken, the Conservation Board, has that effect, so that indirectly the Board has dictated prices on crude and on the refined products and that is why I think that, apart from any social consideration, the Board is faced with two things, if they regulate too close they create monopoly. If they regulate too wide, they create conditions just as bad, so there is just the middle of the road and I suggest that the proper way,- until some better way comes, - is for the Industry itself to make the general nominations; in other words, that there be a nominating committee and then the conditions or the views of all the people who are interested will be weighed and a common ground will be found and the amount of storage available, the amount of probably markets available, will be weighed and then they will arrive at a figure which they will submit to the Conservation Board as the allowable and the responsibility then will be the industry's and not the Board's. Outside of that I see no other way unless the Board arbitrarily fixes it and there is no doubt in my mind if the Board does not arbitrarily fix it or if the industry does not make a figure, it will result in inequitable withdrawals from the field and create the very opposite of what the Act seeks to accomplish, so in the light of all that I can consider, it would be well for this Commission, in my opinion, to investigate that particular aspect of it; in

other words to weigh the national and provincial considerations in other words the policy that is to be followed because I do not believe that it is up to the Conservation Board to determine the policy and at the present time they have exceeded their authority in my estimation by creating a condition that effectively sets a policy and restricts our markets and increases costs. Now that is about all I have to say and I am making these remarks because the other gentlemen have seen fit to make general remarks.

THE CHAIRMAN: It seems to us that it is part of our duty to be concerned with the avoidance of waste and an equitable distribution and the first query is whether or not this Act provides any authority for this Board to be concerned with it and secondly whether or not if it does it is a sample of both efficient and equitable operation provided by enactment superimposed upon the capture rule with respect to which we may have other explanations to make. It is quite idle to say that Conservation has no bearing upon cost, a subject that we are specifically directed to inquire into.

Well now, we will thrash it out and discuss it back and forth. Mr. Mahaffy, I have been thinking, since last addressing you, what you are going into tonight and what you have mentioned as the formula which is in here, that is pure engineering, is it not?

MR. MAHAFFY: It is , sir.

THE CHAIRMAN: Do you think that Mr. Cottle can add anything? I was wondering if we need bring him back for that, I mean can Mr. Cottle say anything more than the Board's engineer says, that that is proper engineering practice.

MR. MAHAFFY: My Lord, after I have had a chance

to go through that I may not want to ask Mr. Cottle any questions about it at all but I do wish to ask him some questions in addition to that, concerning the operations of the Board in administering the Conservation Act with respect to the Gas Act because that is something which is vital also.

THE CHAIRMAN: Well in view of our discussions, have you much more Mr. Plotkins to ask him?

MR. PLOTKINS: No.

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THE CHAIRMAN: In view of our discussion have you much more Mr. Plotkins to add?

MR. PLOTKINS: No.

THE CHAIRMAN: The Board want to get Mr. Cottle away. It is not a matter of not having the witness attend at the convenience of Counsel.

MR. PLOTKINS: Well, Mr. Chairman, is Mr. Cottle the only one that is going to speak on behalf of the Board? Are we going to have the privilege of hearing Mr. Knode?

THE CHAIRMAN: We have required that Commission Counsel have the Conservation Board tell us what they have done. I think this Board is not calling Mr. Knode because Mr. Knode did this or any other engineer did it. It naturally does nothing more than represent that which he has done. It is quite clear we hope to have the opinion of Dr. Frey who in conservation matters should have knowledge and who perhaps will suggest to the Board other schemes, so-called conservation schemes. But there is nothing to prevent anyone calling Mr. Knode or any other witness. But we do not want to waste any time about it. If he has propounded this s eme, unless you see some purpose in having him say he still thinks it is a good scheme, I do not see any object in calling him.

MR. PLOTKINS: I think you are right Mr. Chairman, in the light of the fact ---

THE CHAIRMAN: We wanted somebody from the Board just to say what their scheme is.

MR. PLOTKINS: There is one suggestion that I would like to make and that is, is it possible for ounsel to the Commission to bring here a dian economist, a man in the employ of the Dominion Government, that will review

THE CHAIRMAN: I did not catch what you said first.

MR. PLOTKINS: I said, is it possible for the Commission to bring here to express the views of a man capable of weighing the problems and implications that will result from any recommendations or from any situation that now exists or will exist in the future so as to give the Commission the benefit of weighing the problems and making known the views that will fit a little more exactly into the Canadian picture. I have no doubt Mr. Frey will come up here and give us a very able expose and probably recommend in the light of his experience what should be done here but he can only do that in the light of his experience in the United States. I suggest that more and more the problems we are faced with here, economic problems and the way that this industry should be directed have nothing to do with the United States situation and we will have to hew our own path in the light of knowledge and reason and more so in the coming days. I suggest it may be possible for Counsel to bring here an Economist from the Dominion Government, one that is in the petroleum aspect, and there is some one, I am not going to name any names but I know there are quite a few people in the Customs Services and the service of the Dominion Government that are quite able to weigh the situation in the light of Canadian necessities and Canadian viewpoints and it will be of more assistance or at least will be in addition to what Dr. Frey can tell us, because after all Dr. Frey can only give us evidence to the effect that there is over-production in the United States in general and in the light of that situation as it affects their own markets and their own economic conditions they have done this and that.

In this country this industry is in its infancy and what would be good business and good economics in the United States possibly might not be so here and in the light of that I believe I would like to suggest and to explore the possibility of bringing some prominent man in the employ of the Dominion Government or some one equally versed in the situation that could advise the industry as well as the Commission.

MR. FRAWLEY: I do not want to be abrupt about rejecting anybody's proposal but I feel I should say again I rather flattered myself I was able to get a man like Dr. Frey. I think there is no man better qualified in the whole of America. Dr. Frey is saturated with the American point of view but being qualified from the nature of the man's early training and his present qualifications he can come to Alberta and study the Alberta picture and facts and he can make as intelligent a statement as any person we could find in the Dominion of Canada. We want an oil economist. Where is there an oil field in Canada? My learned friend's clients have a small field in Sarnia. But this is the only Oil Field in Canada and of course there is nobody in this province who sets himself up as an oil economist. Dr. Frey is just that. I only repeat the things that I said before. I think I was very fortunate and the Commission is fortunate in having Dr. Frey, undoubtedly the best qualified man in America. If he comes and studies the Alberta situation we will have as good an opinion as anybody's we could get in Canada. I say that because I do not want to build up any hope to my friend - because I have given some thought to it - and I got Dr. Frey as a result of inquiries made everywhere but largely in the United States, of course, and I was advised to get Dr. Frey by Mr. Pogue and perhaps there is nobody better informed on the American Continent than Dr. Pogue himself.

I do not want to abrupt about
anything unpleasant that I feel I should say again I
will be frightened myself I am able to put a man like Mr. Hyde
I think there is no more faithful exhibition in the whole of
the crime. Dr. Poor is saturated with, the Jurisdiction right of v
ight making difficult from the nature of the man's only thought
and [illegible] -ment qualities-those he can come to. Although a ab
the [illegible] picture are first-rate for its own sake. Although t
effort so very keeper we could find in the Mansion of Count
to want an old covenant. There is there an old field in
Dracula. By Lawyer Dracula's although I am a small field in
Dracula. Put this to Mr. My Mr. Field to Orcade and of cou
it to be nobody in this revolver who made himself up as ur
[illegible] Dr. Poor to just that. I only repeat the ch
[illegible] would before. I think I was very Arthur and the
[illegible] to interrupt in having Dr. Poor, unfortunately the l
qualified man in America. If is seems was studies the Abbot
that it is will into be read an option as anybody's we sou
[illegible] Dracula. I do not Professor I do not want to undid m
[illegible] my friend - Lucifer I have given some [illegible] it -
[illegible] Dracula Office. I course, and I are afraid to
[illegible] Dr. Poor is. Professor there [illegible] nobody letter
[illegible] Dr. Poor [illegible] Mina.

MR. PLOTKINS: Well now, Mr. Chairman, I do not want to detract from the ability of Dr. Frey and I have no reason to believe that he will not give us the best that he can but after all it is just like Dr. Boatright coming up here and making a hurried survey, he can only express his opinion in the light of his previous knowledge and weigh it in the light of his previous experience. Now the situation we are faced with is entirely different. We know the difficulties. This Board is functioning differently from those down in the United States because the Boards in the United States are guided by the United States Bureau of Standards and then the Conservation Board weighs its information in the light of their own knowledge and at least they have something to go on ---

THE CHAIRMAN: Well all right, you suggest that we get an oil economist who is a Canadian ---

MR. PLOTKINS: Preferably in the employ of the Dominion Government.

THE CHAIRMAN: Yes.

MR. PLOTKINS: Who also has knowledge.

THE CHAIRMAN: Who would you get that has made any study of Oil Economics?

MR. PLOTKINS: I am informed that in the Department, in the Revenue Department and in the Customs Department that they have built up a staff that is very competent. I have talked with some of them and I was surprised at the knowledge which these men had, not only on Canadian conditions but American and World conditions with respect to oil and I feel sure there are a number of men competent to come up here and to give the Board the benefit of their experience and their advice in respect to policies which you may have to pursue in the future.

THE CHAIRMAN: Well, Mr. Plotkins, if you can satisfy Mr. Frawley, all right, but at the moment we are not going to make a direction that some one from the Customs Department is to come here at the expense of the Government to assist us with regard to the formulation of a Conservation Scheme and with respect to which Dr. Frey is entirely familiar. Now if when he is through there is some respect in which you think he has failed to bring evidence before us and which you think should be of interest to us as Canadians concerned with a Canadian problem because he has related his conclusions to experiences which are purely American or United States rather, then and only then will we feel that it is open to us to make the suggestion that the expenditure involved in a study of this character by a Canadian who must start from scratch, who knows nothing about the oil business except so far as he has read of it, that such an expenditure should be made and that he should be brought here to help us, we will only do that if you can satisy us that the one who is brought here, who is thought to be the best available in America, has fallen down on something. It is time then and only then to consider whether we should have another witness. That is our present view, Mr. Plotkins, and we will not make any direction now.

MR. SMITH: Are we through with Mr. Cottle, at least for the moment?

THE CHAIRMAN: Oh, no, quite aside from this engineering question, Mr. Mahaffy wants to ask about Gas Caps and that will be at ten thirty.

MR. SMITH: Oh, yes, I forgot.

MR. FRAWLEY: And we have to still consider,

Mr. Chairman, whether we should meet from 9.00 to 1.00. I just had a word with Counsel at noon.

THE CHAIRMAN: We will sit at ten thirty tomorrow morning and you can discuss it with Counsel in the meantime. It is immaterial with the Board.

(The Hearing was here adjourned to be resumed at 10.30 A.M. September, 19th, 1939.)

J. J. FRAWLEY

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta SEPTEMBER 19th, 1939

VOLUME 117

LEGISLATIVE VAULT

BOX 83

I N D E X

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E X H I B I T S

EXHIBIT 595

Circular letter dated 5th September, 1939, sent by the Petroleum and Natural Gas Conservation Board re Order setting out the allowable production of gas from gas wells in Turner Valley, extended in full in the report, see page 13,157.....13,156

THE CHAIRMAN: All right Mr. Mahaffy.

FREDERICK G. COTTLE,

having been recalled, examined by Mr. Mahaffy said:

Q Mr. Cottle, we were discussing yesterday the crude oil situation and there are just one or two more questions I would like to put to you in connection with that particular phase of the subject; in your memorandum filed with the Board yesterday you set out the method by which, I am sorry I should have said the memorandum filed with the Commission yesterday, you set out in general detail the method by which the allowables of the wells is fixed by your Board?

A Yes.

Q I believe that is the first time that that information has in any way been made public?

A Well no, I would not say it is the first time. When we made our first schedule on September 2nd, we prepared the schedules which were distributed and we made, as a matter of fact, explanations of the factors and from time to time we have explained it in detail to any operator interested in asking us concerning it. I would say that it is very well known publicly, that is to the people interested.

Q Let us put it this way, the method you used at arriving at the various factors in making up that formula is not known publicly?

A What do you mean by the method of arriving at the factors?

Q There are four factors which enter into the composition of

that formula?

A Yes, that is right.

Q The method by which you arrive at the weight, shall I say, to be given to those various factors in respect of any particular well is something which is not publicly known?

A That is a matter of judgment; that in fact was discussed with the operators at the time the first proration schedule was issued.

Q Is it not true, Mr. Cottle, that the exact nature of the method followed in arriving at the allowable of any particular well is something which has been kept pretty much as a secret, whatever the reasons may be, up until now?

A No, I would certainly say that is not true.

Q Is it not true that an operator cannot go to your Board and obtain the necessary data showing the basis of fixing any particular allowable?

A I do not think that is true. I have discussed the formula and the operation of it with a number of operators. I think the Board is willing to discuss it with any one of them.

Q Is the position now then that any operator, and when I say operator, I mean operator of a producing well, can go to your Board and get full and all information on this thing?

A As far as I know, yes, I do not know any policy of the Board that they cannot.

Q Are the employees in the Board's office instructed to give that information to anybody requesting it?

A I do not know if they have any specific instructions

or not.

Q So far as you know?

A They have never been instructed by me.

Q Now you are a member of the Board and my information is that an operator cannot go to the Board and get the data required to figure out how you figure the allowable of his well or on anybody else's well?

A I do not think that is true.

Q Are you sure?

A Because I have personally discussed the subject with a number of operators.

Q Are you sure?

A Yes.

Q So that the situation now is that any operator can get any and all the information he wants from the Board's office concerning the fixing of the allowables?

A The allowable of his well?

Q Or anybody else's well?

A I would think he could, yes.

Q My information, Mr. Cottle, is that that has not been the situation in the past. If it is so now we will just drop the matter right here?

A Well when was it not the situation?

Q My information is that an operator has never been able to get full and complete information; there is certain information he can get but other information he is refused?

A Oh there may be information at the Board's office that he is refused but I think certainly any operator can get sufficient information to find out how his

allowable is arrived at.

Q And is there any reason why he should not get information on his neighbour's well?

A It may be that a neighbour would not want his neighbour to know everything about that particular well.

Q Why should he?

A Well I suppose operators do not want the total story told to everyone. We have a lot of confidential information in the Board's office.

Q Is it advisable, in your opinion, that information with respect to the wells, I do not mean the details of the companies' operations or anything of that nature, but is it advisable that the data with respect to wells should be kept secret?

A What data do you refer to?

Q Bottom-hole pressure and all the other details which enter into the fixing of the allowable?

A No, I see no reason why it should be kept secret.

Q Well now as I say we will just let this whole thing drop right now if you tell me that the present policy of the Board is to make all that information available to an operator?

A Well I had better consult my colleagues in that respect and see what instructions are given to the staff. As I say I do not know of any instructions to the staff to the effect that an operator could get no information from the Board or insufficient information to determine how his allowable is arrived at.

Q I will just give you an example. For instance take the Wanalta Well recently completed in Turner Valley---

THE CHAIRMAN: Just a moment. I do not think that answer is quite complete. What Mr. Mahaffy asked, Mr. Cottle, as I understand it is that since you are working on the theory of this being a common pool that he should have the right to get the data on all other wells, as well as his own, to see how it compares with the treatment he is getting.

WITNESS: As I say, sir, I cannot answer that until I consult my colleagues because I know they are able to get that type of information.

Q MR. MAHAFFY: Now when can you give me a definite answer to that?

A If we could adjourn for five minutes I could get it now.

Q You can get it for me this afternoon?

A I can get it on the telephone right now.

Q I do not want to ask the Commission to adjourn. If I can get it this afternoon that is sufficient for my purpose. Take as an example for instance the Wanalta Well, I do not know that you are familiar with that particular well, recently completed in Turner Valley and given an allowable of 250 barrels a day; the allowable was then reduced to 200 barrels a day; my clients say they do not know why and they have been unable to find out why. Now has that been the policy of the Board?

A Not that I know of, Mr. Mahaffy.

Q You will get further information on that point?

A Yes.

Q Now Mr. Cottle, are you familiar with a letter of the Board dated September 5th in connection with the gas-cap

operation----

MR. SMITH: Of this year?

Q MR. MAHAFFY: Of this year, yes?

A Yes I have.

Q What is that letter, Mr. Cottle?

(Letter handed to witness)

A It is a circular letter issued by the Board to all operators and persons interested in gas requirements.

Q MR. MAHAFFY: It might go in as an Exhibit if you have the original. This is not addressed to anybody, my Lord.

MR. FRAWLEY: Well you can put it in.

MR. MAHAFFY: It is not an original in any way, shape or form.

THE CHAIRMAN: Mr. Cottle can identify it.

MR. FRAWLEY: You say it is produced by you as having been received by one of your clients?

MR. MAHAFFY: That is it.

(LETTER PRODUCED HERE MARKED AS EXHIBIT "595").

MR. MAHAFFY: Now this, Mr. Cottle is a copy----

THE CHAIRMAN: You might read the letter please that you have put in.

MR. MAHAFFY: Yes, I will my Lord but I just wanted to explain to the witness exactly what it was before I read it.

Q MR. MAHAFFY: This, Mr. Cottle, is a copy of a letter which was sent by the Petroleum and Natural Gas Conservation Board to all operators in the Turner Valley Field?

A I think to all operators in the gas-cap. It may also have been sent to the oil operators. It was sent to all people who could possibly be interested in gas production and consumption from the gas-cap.

Q I see?

MR. MAHAFFY: My Lord, this is a letter dated September 5th, written by the Petroleum and Natural Gas Conservation Board.

"Dear Sirs:-

" TAKE NOTICE that on the 25th day of "September next the Board intends to issue an "Order setting out the allowable production of "gas from each well in the Turner Valley Field "classified by the Board as a gas well.

" In order to determine the actual re- "quirements for gas from the gas wells for the "period October 1st to 31st, 1939, the Board "is hereby notifying all producers, distributors, "and consumers of gas that their requirements "for the above stated period should be filed "with the Board not later than the 24th day of "September, 1939, and that any representations "they wish to make regarding these requirements "must be made prior to that date.

" For the purposes of conservation, in "determining the actual requirements for gas "from these wells the Board will take into con- "sideration only gas to be used as a fuel for "the generation of light, heat and power for "domestic and industrial use, in equipment "properly designed and constructed for that

"purpose, and not solely for its expansive
"properties.
" The Board may consider the use of gas
"for other purposes where, in its discretion,
"circumstances warrant such exception."
" Yours very truly,
" C. W. DINGMAN,
" Deputy Chairman. "

Have you an extra copy of this with you?

A Not with me but copies can be had though.

Q Now Mr. Cottle, does that letter correctly set forth the intentions of the Board with respect to the operations of the Board in connection with the gas-cap producing area?

A Well Mr. Mahaffy, I do not think I should speak as to the intention of the Board at the present time. That is a subject under consideration by the Board. People are going to be heard and I do not think it is in the public interests that I should now, being a member of the Board, discuss it, until the Board comes to some definite conclusion. For that reason I would request the indulgence of the Commission in permitting me not to discuss that particular subject. I have no objection whatever to explaining what has happened in the past.

Q THE CHAIRMAN: You say you have come to no conclusion as to the future and therefore you could not announce it if you wished to?

MR. MAHAFFY: I am asking, sir, does this letter correctly set forth the intentions of the

Board. They say in the letter they intend to do these things.

MR. FRAWLEY: It speaks for itself.

MR. MAHAFFY: Pardon?

MR. FRAWLEY: I say that letter speaks for itself.

THE CHAIRMAN: The witness is now, whatever the letter may say, saying that they are hearing people and they propose to come to a decision but they have not as yet.

MR. MAHAFFY: Very well.

THE CHAIRMAN: When they do come to a decision of course their decision is evidence.

Q MR. MAHAFFY: Well then, leaving that Mr. Cottle, what do you mean in this letter when you say "Gas not solely for its expansive properties"?

MR. SMITH: Is that not subject to the same objection?

MR. MAHAFFY: Well we will leave the letter aside altogether then. It does not matter to me.

MR. SMITH: Probably you will allow me to finish.

MR. MAHAFFY: Pardon me, I thought you were. I am sorry.

MR. SMITH: No, I am simply voicing Mr. Cottle's objection, that it is not in the public interests that that should be examined into here. They have invited conferences and so on and no doubt any difficulties may be straightened out. As your Lordship

says when they come to a conclusion no doubt it will be put before you.

THE CHAIRMAN: Of course we will not refrain, so long as anyone thinks it pertinent.

MR. SMITH: Pardon?

THE CHAIRMAN: I say so long as anyone thinks it pertinent we will not refrain from examining into any subject just because the Conservation Board does not think it pertinent or the proper time to discuss it, but they may do the very opposite to what they indicate in the letter.

MR. SMITH: You will not be adjourning before the 25th of September.

THE CHAIRMAN: Oh no.

MR. MAHAFFY: If my learned friend objects I am quite content to postpone this examination until after the Board deals with this matter. I am not in any hurry.

MR. FRAWLEY: There is something else there.

THE CHAIRMAN: Just what point are you seeking to make, Mr. Mahaffy, and let us be specific?

MR. MAHAFFY: I hope to be able to show to your Lordship that the Conservation Board is not acting fairly to my client in particular.

THE CHAIRMAN: Yes.

MR. MAHAFFY: And is handling the gas-cap proposition quite improperly throughout and this is the next step which they evidently intend to take?

THE CHAIRMAN: Yes.

MR. MAHAFFY: Now I want to bring out for the benefit of this Commission the importance of a particular industry, namely that operated by the Gas and Oil Products, Limited, in respect of that gas-cap operation and I want to show that it is something vital to the general petroleum indstury in this Province.

THE CHAIRMAN: Yes.

MR. MAHAFFY: And I want to show that the Board is endeavouring, we will submit, to eliminate that factor and I would then hope that your Lordship and Mr. Commissioner would see fit to recommend to the Government that this is an important factor in the industry and should be allowed to survive.

THE CHAIRMAN: Well if we think it is, undoubtedly we will but is this not your present position, that the Board is now considering this. If they do what you think proper for them to do you will have no complaint, and no reason to spend any time on it before us. If they should meet what you think is the proper thing to do, by doing it, but if they do not, then that fact may be established before us and where in your opinion the error arises?

MR. MAHAFFY: That is what I say, my Lord, I am quite content to allow this matter to stand.

THE CHAIRMAN: I do not see, Mr. Frawley---

MR. MAHAFFY: Until after the 24th.

THE CHAIRMAN: I know but we are concerned with time, Mr. Mahaffy.

MR. MAHAFFY: I realise that sir.

THE CHAIRMAN: And under all the circumstances just now we do not want to prolong this Inquiry. While we are not going to shut it off and do injustice to anyone to whom our recommendations might do injustice in respect of any particular matter yet it strikes me that right now it is idle to pursue it. It equally strikes me, Mr. Frawley, that, do what we like, we will have to hear something more from the Board as to its decision.

MR. FRAWLEY: And when will that be announced. This is simply a letter inviting representations.

THE CHAIRMAN: I heard Mr. Smith say they were going to sit.

MR. SMITH: They will sit on the 25th, that is the way I understood it as it was read.

MR. FRAWLEY: I am only suggesting that things may happen and they may not just make an order on the 25th, for some good reason, they may find it advisable to delay it and then we have the Commission and the Conservation Board waiting on each other or perhaps I should say the Commission waiting on the Conservation Board. That may be an idle surmise.

THE CHAIRMAN: Here are people who say that something is about to be done improperly in respect of the gas-cap area. Now you do not suggest that we should not hear them, do you?

MR. FRAWLEY: I am sorry, I was disturbed my Lord.

THE CHAIRMAN: I say here are people who

have come forward and who have said through counsel that an injustice will be worked upon them.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Through the activities of the Conservation Board. We are not here to supervise the Conservation Board but if something is being done by the Conservation Board that effects costs to people in Turner Valley we are interested.

MR. FRAWLEY: I would agree with that.

MR. SMITH: Perhaps I should read this first paragraph.

THE CHAIRMAN: And then we should hear the evidence, and the Conservation Board certainly by simply not giving a decision in a given matter, not having examined into it,-you see I am trying to save time.

MR. FRAWLEY: I do not suppose that the Conservation Board will say, the Conservation Board will say "We can get out of this by simply refusing to make an order until after the Commission is wound up and then after the Commission is wound up we will make an order".

THE CHAIRMAN: No, I cannot imagine Mr. Cottle contemplating any such procedure.

MR. FRAWLEY: No.

THE CHAIRMAN: But it is what is the best way to do it.

MR. FRAWLEY: I was hoping yesterday morning when we started we would finish everything except the analysis of refining and marketing costs by Dr. Frey and Mr. Cottle on the 16th of October but it may be that we cannot do that.

THE CHAIRMAN: Well it is the 25th of September.

MR. SMITH: Allow me to read this first paragraph, I do not know why it should not be taken, why the Board should not be taken at their word.

" Take notice that on the 25th day of "September next the Board intends to issue an "order setting out the allowable production of "gas from each well in the Turner Valley Field "classified by the Board as a gas well."

Now I do not know why the Commission should not take them at their word.

THE CHAIRMAN: I know of no reason either.

MR. SMITH: Neither do I know of any reason why that will not happen. Of course something might happen in the meantime but at the moment----

THE CHAIRMAN: We still have between the 25th of September and the 15th of October, Mr. Frawley.

MR. FRAWLEY: Yes.

MR. PLOTKINS: Mr. Chairman, there is but one other thing I would like Mr. Mahaffy to deal with, that is aside from the point at the time but the principle I would like Mr. Mahaffy to deal with is this, there is a gas-cap. We need the absorption gas. It has been brought out at a previous Inquiry, it has been brought out at this Inquiry. Now the Board, the Conservation Board has a definite policy in respect to that gas-cap and that is what I would like Mr. Mahaffy to deal with and bring it out and then weigh that policy in the light of the necessity, that is in the light of what we need and how it effects our costs;

What I mean by that is, as I understand, the Board has made it very clear both before the House and in all their subsequent Hearings that they do not believe that we need this, that we can get along without it. Now why should the Board take that arbitrary action. Are they competent to decide whether we need it or do not need it. This is an engineering matter but for them to pass an opinion and enforce a policy which will effect us in the industry is another matter and that is what I would like Mr. Mahaffy to deal with; not whether they would put in 10,000 feet or 10,000,000, that does not interest me, but what does interest me is whether the Board will effect our cost by controlling the casing-head. Now that is what I would like Mr. Mahaffy to deal with and I think that is quite pertinent to this Inquiry.

(Go to number 13,166)

MR. SMITH: The last paragraph of this letter reads, "The Board may consider the use of gas for other purposes where, in its discretion, circumstances warrant such exceptions."

Q THE CHAIRMAN: Mr. Cottle, you heard what Mr. Plotkins has just had to say. Will that be a subject of review also prior to your decision on the 25th of September.

A The matter of casinghead.

Q Yes?

A That won't be considered as a separate issue.

Q Does it arise?

A If there is any further restriction of gas from the gas-cap the problem arises. Naturally the less gas produced the less casinghead is recovered from the absorption plant. That would depend on what the Conservation Board does. There is history, of course, to look at. We have done certain things to date which have done certain things to the supply of casinghead. Anything we may do naturally must have an effect on the supply and production of casinghead which is now of course less than it was a year ago.

Q MR. FRAWLEY: Due to the restriction on the production of gas?

A Yes.

MR. MAHAFFY: I may say I have had some degree of intimacy with this problem now for some little time. It seems to me that the whole difficulty is this; Mr. Knode, the Chairman of the Board, takes the view and

has so expressed it that he has been instructed by the Provincial Government to effect Conservation.

MR. FRAWLEY: By the Legislature?

MR. MAHAFFY: By the Legislature to effect Conservation. I do not remember the exact words that he used before the Legislative Committee in Edmonton, but he said, " If you want Conservation, I will give it to you and I care not who suffers or what the economic results are. But if it is Conservation you want you will get it." That is what this Act instructs and Mr. Knode and the Board have taken the stand that that is their job to prevent wastage. Now the argument has always been and still is, it is all very well to say you are going to close up every well in Turner Valley that is producing any gas that is not being used but reasonable business people thinking of the reaction on business and on the economic life of the province have got to take a little broader view of it than that and while it may have been desirable ten years ago to close in the field or to prevent wells being drilled, we have to face the situation as we now have it. Thus far we have not been very successful in submitting to the Board that the advantages accruing from the use to which we put the gas out weigh the disadvantages of that gas to some extent being wasted. Their only concern apparently is to stop that wastage irrespective of what other damaging effect it may have. That is why we raise this point here because we are satisfied that this Commission, taking the broad view of the whole situation, will recommend to the Government that they strike some sort of a practical compromise shall I say, which will permit this in-

dustry to carry on but which at the same time will effect as far as possible the objectives of the Conservation Act. It seems to me the root of the whole difficulty is that Mr. Knode says, "This is a Conservation Act. I am the Chairman of the Board. The Government is going to get Conservation," and he just cuts right through to that end no matter where the path leads him.

MR. SMITH: I do not admit that is a fact at all and I have been with him the same length of time as my learned friend.

MR. PLOTKINS: Mr. Knodes words are in that transcript and there is no doubt about it. That is a view point of the Board and it should be reviewed.

THE CHAIRMAN: Now Mr. Frawley what do you suggest that we do about it, in the matter of hearing evidence.

MR. FRAWLEY: Well, my position simply is to give everybody an opportunity to come before the Commission. I am certainly not going to take any sides in this at all, particularly as the Board is represented here and the opposing interests are represented here by Mr. Mahaffy. I want to give everybody an opportunity of presenting the evidence which in the opinion of the Commission is germane to the Commission. I am concerned of course with finishing the inquiry. If we have to wait until the 25th it means say two or three days after that and then give Mr. Mahaffy an opportunity of coming and presenting evidence, I do not know, but it might delay us. I do not know what the Board thinks about it.

MR. MAHAFFY: I could say this much further and it may be of some assistance, I do not know. There has been a lot take place already naturally and what brought this to a head is an indication of the next step. I could go on now to deal with what has happened but on the other hand what I am content to do is that the Board has indicated that they will hear representations on this point. It may be - I am not optimistic, I am pessimistic - but it may be that they will listen and give some consideration to our suggestions. If they do that is an end of it. If they do not then of course we want to come back here.

THE CHAIRMAN: Well Mr. Frawley it strikes one that that is sensible not to go on debating the past happenings.

MR. FRAWLEY: No and that is all Mr. Cottle can do and as you have probably have ruled that is all he should do or be asked to do at the moment is to tell us the history and that is of no importance. But surely that is the place for Mr. Mahaffy to make his representation.

THE CHAIRMAN: I think, Mr. Mahaffy, you should be punctilious to make your recommendations to the Board, In the meantime, it may be if your propositions are sound that they will be accepted and it won't arrive here for us to deal with then. If not I think you should have an opportunity of coming here and saying wherein it is adding to the expense of the operations in Turner Valley and what you conceive to be a wrong decision of this Conservation Board. We will let it go then until the 25th. Is there anything more from this witness?

MR. PLOTKINS: I would like to ask a few questions.

THE CHAIRMAN: Have you anything more Mr. Mahaffy?

MR. MAHAFFY: I think not. I am just wondering now, where, whether Mr. Cottle will be available if it is necessary for us to go on on the 25th or soon thereafter.

THE CHAIRMAN: Mr. Cottle definitely will not. He will be in Washington. But there is no question the Board will have a representative here, Mr. Smith.

MR. SMITH: Well I have been somewhat concerned about just what Mr. Mahaffy has been saying. I wonder if it makes any difference. Mr. Knode is not with the Board and the Board has decided that Mr. Cottle was the proper porson to give the Commission this information and to be examined. Is he going to be away very long?

THE CHAIRMAN: He won't be back very much before the middle of October, will you?

A No I won't.

MR. SMITH: Would that make any substantial difference to anyone?

THE CHAIRMAN: We have a concrete plan we are trying to work out and that is that everything be cleaned up before the 15th of October other than the evidence of Dr. Frey and any rebuttal of it that might come about.

MR. SMITH: Probably by proceeding with something else we might have Mr. Cottle. I am

anxious that this be not divided between various members because the memorandum is one joint discussion.

THE CHAIRMAN: Mr. Smith, it strikes me this is a new matter. Mr. Cottle has told us about the past. He has told us what is presently being done in the matter of a formula and that sort of thing. What goes on from now on, Mr. Cottle will not be here.

MR. SMITH: He is going away tomorrow.

THE CHAIRMAN: It is other people we are dealing with, what goes on in the interim and they are competent witnesses and not Mr. Cottle who is down in Washington. Don't you think so?

MR. SMITH: I may say, Sir, I do not want this --

MR. Just one moment Mr. Smith.

MR. SMITH: Yes.

MR. MAHAFFY: I would like to ask my learned friend just how the Board is going to function with Mr. Cottle away. Apparently they are going to hold a meeting and hearing. Mr. Knode has gone and Mr. Cottle will be gone.

MR. SMITH: I haven't the least idea I am sure someone will be appointed so that it will be able to function. I am anxious to make my position plain before you, sir I had no idea what my learned friend Mr. Mahaffy intended asking Mr. Cottle. It may be that I will, whenever you resume, argue before you that perhaps the evidence should not be admissable before you. That is the usual thing. I merely want to make it plain that I am reserving whatever rights I may have until that time.

THE CHAIRMAN: We are trying to work out in a way satisfactory to everyone when we will hear it. We have no doubt we will hear the people who wish to speak upon this subject, if there is a controversy about it as to how it is affecting production costs and refining costs. I do not know how we can escape it.

MR. SMITH: Confining myself to the evidence you can see my difficulty. Mr. Cottle is the accountant to this Commission and at the same time he is a member of the Board and trying to divide up his time. Mr. Mahaffy made quite an intelligent remark as to how are we going to carry on after he has gone.

THE CHAIRMAN: He cannot speak with precision now because it is not being arrived at. If he is going away tomorrow it is difficult to arrive at a decision before the 25th of September unless you do it tomorrow. You cannot do it tomorrow and hear representations. There seems to be somewhat of an impasse. What do you suggest Mr. Frawley?

MR. SMITH: It looks like we will have to appoint somebody else to the Board.

MR. FRAWLEY: I am concerned very seriously with the 16th of October, in a variety of ways. I may be told by the United States Government that Dr. Frey can come on the 16th of October and he can stay so long and then he has to get home. I perhaps cannot say if I would like to that we have got into some other trouble with the Conservation Board evidence and we do not want him until the 15th of November and then he says, "You cannot have me at all." Then we have Mr. Nolan who said at one time that he will bring Mr. Le Sueur. Now the war has made it

important for Mr. Le Sueur to consider other things beside Commissions and Mr. Le Sueur may say, " I cannot come in November and December." Then we have your Lordship's own problem and it is all too much for me to answer at the moment. It has to be thought out in a round table discussion perhaps. It is very difficult.

THE CHAIRMAN: Very definitely there should be no interference with the evidence of Dr. Frey being taken on the 15th of October if he is here to give it. What we may have to do about collateral things is another matter. The concrete problem right now is when do we go on with this subject. It seems absurd to say we will take it up on the 25th because the Board's decision will be announced then, when one or two members of the Board will not be here from tomorrow until the 15th of October.

MR. FRAWLEY: Mr. Smith may advise the Board to have Mr. Cottle here for a different reason. Perhaps the Board may say we want Mr. Cottle to present the views of the Board. I presume the Board could have that privilege. It is these questions that do arise.

THE CHAIRMAN: It means it will be deferred until we have had the evidence of these other people and more delay.

MR. FRAWLEY: That is why I think with every respect it would be idle for me to try and conjecture how we are going to work it out. I think we will have to wait and discuss it more informally.

THE CHAIRMAN: How were you going to work it out Mr. Cottle? You sent out the notice. How are you going to deal with the subject matter of your notice?

A There is another subject that arises before September 25th and that is the Board of Revision on Wednesday. I obviously cannot sit on the Board of Revision and be in Washington at the same time so presumably something will have to be done to make a temporary appointment to the Board so that they can function, or all these things will have to be deferred until I get back. I assume that an appointment will be made so that the Board may function.

MR. COMMISSIONER LIPSET: I suppose the effect of that will be that no decision will be given until the representations will be considered even if the 25th of September should pass.

A Oh yes I do not think the Board considers it is bound to issue the order on the 25th if it is not ready to issue the order. It may be that the representations will delay the Boards decision.

Q That is the representations would be considered before the order was made?

A Yes.

MR. FRAWLEY: That is what I said. The Board may not be able to give an order giving due effect to the representations. These representations may go on from day to day. The Board says, "We would like to have them by the 24th," but we know very well that adjourments are granted to meet the convenience of these companies and so on, and no order will be made.

A Problems may arise in the representations which may make it impossible for the Board to issue an order on the 25th although his letter says that the Boards intention is to deal with the matter if it can .

MR. FRAWLEY: It is a notice?

A Yes it is a notice.

THE CHAIRMAN: Mr. Mahaffy we think we will defer the whole matter until the Board has had an opportuntiy of hearing the people who wish to come before it and come to a conclusion about it. In the event of no conclusion being arrived at at the time we are ready to close out the hearings of this Board you will be heard and such witnesses as you wish to call. There will be no question at all you will have a hearing. In the meantime I think the Board should work out its own means of hearing the people and coming to a conclusion or coming to a decision. If they fail in any or all of these things you none-the-less will be heard by us and our recommendations will be made just the same as if they had functioned, if we think it is a proper case for making any recommendation . All right Mr. Frawley?

MR. PLOTKINS: I just have a few questions.

Q Mr. Cottle would it not be possible for the Board to publish monthly pertinent information that would give the industry and the producers themselves the data that would permit them to weigh the facts and assist the Board, or to make representations to the Board in order to preclude any mistakes such as have been in the past. What I have in mind is this and I am going to ask your opinion. The net production each month for each field is now given more or less in detail and the storage on hand in the Valley and storage on hand at the refineries and then the consumption, that is the amount of run by each refinery so that we can check,the industry itself can check the figures that the Board uses in arriving at the allowable.

And shipments to outside the province so that we can weigh the imports and guide our business accordingly and then the demand, and what I mean by demand is the allowable. Would that be feasible?

MR. SMITH: May I make this suggestion? This is a long question and it asks with respect to the publication of certain things, production, storage, refinery through-put and so on. It just seems to me that if my friend, Mr. Plotkins, is serious in wanting this thing done why doesn't he make the request of the Board without coming before this Commission, where a man is under oath and asking him to express a view about something which obviously he has not discussed with his colleagues. If we fail to give a reply to any reasonable request then he can come here but it just strikes me this is scarcely the place to ask a question of that kind and expect any answer. It may be if he writes us a letter that we will do that. I do not know.

MR. PLOTKINS: Mr. Chairman, the reason I asked this is not so much because I cannot get it from the Board. I do not know. It is perfectly possible the Board will be willing to give that information, and by the way every Conservation Board that I know of provides that information monthly. But it is mostly to bring out --

A Just a minute Mr. Plotkins, you say every Conservation Board supplies all the information you mentioned?

Q Practically all, yes, in fact all of it to my knowledge.

A That is not right Mr. Plotkins because it is impossible for you to ascertain from the Conservation Board in Montana, for instance the nearest one we have, what the refineries run there, in individual refineries.

Q I am sorry and unless I did not read it right that the Conservation Board report monthly shows what is used up by the refineries and also shows what is in storage at the refineries.

A In total but not for each refinery.

Q Yes that is true it is in total but the figures could be available at the Board's office for each refinery and the reason that I am taking that up here, to answer Mr. Smith, is this that we are questioning the method by which the Board arrives at the allowables and that it is certainly a pertinent question before this Commission in order to assist the Board as well as to weigh their judgments and decisions and make representations for the next month or the next period that they make a new allowable, if we had that information available to the trade we could check it and go to the Board and say, "Here is a matter here you have not taken into consideration," then we could also get this information.

THE CHAIRMAN: That may be most desirable Mr. Plotkins but after all we are not going to ask Mr. Cottle to say - Mr. Smith's point is well taken that Mr. Cottle should not be invited to say what his Board will do or what his Board should do. He can be made to say what the Board has done but when you are asking him to speak for the Board in futuro then it must function as a Board and he as a witness is not competent to speak and we won't insist upon his doing so.

MR. PLOTKINS: They have taken upon them selves to make quotas.

THE CHAIRMAN: You cannot ask one member of a body to say what his body will do in the future.

MR. PLOTKINS: All I am asking him, Mr. Chairman, is whether it is advisable and whether the Board would consider that in his opinion.

THE CHAIRMAN: I do not think either are relevant, when it is going to be considered by the Board as a Board, that he should be asked to give a present opinion.

MR. PLOTKINS: We can make a request to the Board and see what happens.

THE CHAIRMAN: Yes, I think that would be an excellent way. If anything happens that does not please you you can come and tell us why. Now is there anything more from Mr. Cottle.

MR. MAHAFFY: First of all I want to be sure if I understand this. Mr. Cottle will be available for further cross-examination by me when we carry on with this phase of the case if it is necessary to go on.

THE CHAIRMAN: If it is necessary to go on with it.

MR. MAHAFFY: I just want to be sure that Mr. Cottle will be available for cross-examination.

THE CHAIRMAN: You want to know if Mr. Cottle will be available for cross-examination?

MR. MAHAFFY: Yes.

THE CHAIRMAN: Well have you finished with Mr. Cottle up to this point and if you have not, go ahead, and if you have, then how will he know what has gone on while he is away. The man who does know will certainly be available.

MR. MAHAFFY: So long as some representative from the Board is available that is all I wish.

THE CHAIRMAN: Why, of course.

MR. MAHAFFY: That is all I want.

THE CHAIRMAN: There will be no question of that, Mr. Smith?

MR. SMITH: Always sir, subject to what I said a moment ago. You see in respect to all these Schedules and so on with reference to the Gas Caps they are all prepared under the direction of Mr. Cottle and it may be what is done in the future may be done by those persons immediately under him in the Board and if so he will probably be the best man to tell you what the Board has done. They may be acting on his judgments even although he is absent and he may be the best man to give the evidence and that is all I want to do, is to bring before this Commission the best evidence we can obtain for the Commission.

THE CHAIRMAN: Quite so and all Mr. Mahaffy wants to know, and I think it is quite evident, that no member of the Board will refuse to come here and give evidence?

MR. SMITH: Oh, no, I do not think that attitude would ever be taken.

THE CHAIRMAN: And there will be no question, Mr. Mahaffy, but what there will be someone available for you to examine and if you think somebody else has more knowledge than the person presented, when you hear the evidence, ----

MR. MAHAFFY: I am not concerned so long as it is some member of the Board.

THE CHAIRMAN: Well I mean there is no question at all but what you have the right to examine members of the Board if you want to.

MR. SMITH: And that is the reason that I brought Mr. Cottle because I thought he was the person who

keeps the records.

THE CHAIRMAN: You are anticipating difficulties We must be clear, Mr. Mahaffy, and let us be clear about this before we part, we are not sitting to go into the whole conduct of an administrative body that has been set up by Statute but insofar as their action may reflect upon these subjects that we are invited to report upon, then we are interested of course.

MR. MAHAFFY: I will keep that in mind, sir.

THE CHAIRMAN: We are not going into a brand new inquiry about the Conservation Board of Alberta, whether it should have been set up and so on and all its administrative acts but you have some concrete problems, as I understand you, in connection with the Gas Caps. All right, you say it affects your whole refining business down there, it affects your production and so on and those are matters we are concerned with and perhaps no hard and fast line can be drawn but I am leaving it to your discretion to try and not embark us on a wholly new inquiry turning around this Conservation Board.

MR. MAHAFFY: I have no intention of doing such.

THE CHAIRMAN: We will not be led into it either. We would feel differently,if conditions were not today as they are but we think that neither individuals nor companies should prolong the inquiry while we are in a state of war, consistent with what is essential to your operations down there, to that extent we will hear anything you wish to say about the Conservation Board.

MR. MAHAFFY: I will try to keep that closely in mind.

THE CHAIRMAN: I say it is very hard to define just where the dividing line is but we are leaving it to

Counsel of your standing to see that you hew to that line and equally we will try to see that those you represent get a full and complete hearing.

MR. MAHAFFY: There is one further point. Yesterday we were discussing crude oil which to me is something separate and apart from this Gas Cap proposition and what I would like to do, so that that particular phase of the thing may be cleared up, I would like to call Mr. Boyd as a witness to explain to the Commission the method by which delivery of that crude oil from the Royalite Oil Company was taken.

THE CHAIRMAN: All right, certainly.

MR. MAHAFFY: I think that is a separate point.

THE CHAIRMAN: But you are through with Mr. Cottle now.

MR. MAHAFFY: Yes, I am through with Mr. Cottle.

Q MAJOR LIPSETT: Mr. Cottle, I just want to try and get a little further idea, for my own information, as to how this works out, this conservation. I gather that at present on the allowable for each well that you are well within good engineering practice?

A We think so, yes.

Q You as a Board think so?

A Yes.

Q And in consequence the wells of these smaller refiners and small producers are being economically and properly produced, so far as the Board thinks?

A Yes, we think so. We make no distinction whatever between a well that is owned by a small refiner and one which is not. We treat every well in the same way.

Q Now is it the practice of the Board then to allow drilling permits to anybody who asks for a drilling permit and has the

money to drill a well?

A And who complies with the provisions of the regulations under the Oil and Gas Wells Act, I think that is the policy.

Q That is as to where they should be drilled and so on?

A Under what conditions, casing programme and so on.

Q Now what would be the effect on these smaller producers or the small refiners who have already full provision for their own requirements and have drilled under good engineering practices, if some larger organization say was to double the number of wells in the Valley?

A The doubling of the number of wells in the Valley without any increase in the total field requirements would naturally curtail the relative production of each of the existing wells.

Q And in the case of these small producers, the alternative before them, would be, I suppose, either that they would have to double the number of wells that they own or they would have to buy at the posted field price?

A That is right.

Q Well now take the first alternative, that they had to double the number of wells that they owned, that would increase their capital outlay and in consequence would increase the cost of the crude?

A Yes, it would, temporarily at least and there is no doubt it would over the over-all picture. The point I had in mind was that a well that produced at half its existing rate might be expected to produce more oil but it would take more time to produce it and the overhead expenses would go on.

Q And would be so much greater?

A So much more per barrel.

Q Then, as I understand it, the only alternative to that, that they have at present, is that they have to go to one of the larger companies and buy at the posted field price?

A That is right. If their own wells are not permitted to produce sufficient oil for their own refinery requirements they naturally have to buy from some other person who has the oil.

Q And that alternative at present is that they must buy at that posted field price, instead of paying what it actually was costing themselves?

A Yes, that is right.

Q Let me put it this way ---

A Yes, that is right, sir.

Q Supposing it was costing Mr. Mahaffy's client say 80 cents per barrel to produce their crude and at present they are producing it subject to the best engineering practices, it would be possible for their competitors by doubling the number of their wells, to force Mr. Mahaffy's client to pay $1.20 or $1.30 a barrel for their oil?

A Yes, by increasing their cost of producing a well and also by causing them to actually purchase oil at the field price.

Q At the field price?

A Yes, that is an inevitable consequence of additional drilling.

Q Well now has the Conservation Board ever considered or have they the power to consider whether, in allowing the drilling of these further wells, they should be subject to some condition that that oil in those wells should not be taken into account in considering the allowables of the smaller wells up to date, where they have drilled under perfectly good engineering practices?

F. G. Cottle

A I do not know that we have the power to consider that or not; the only power we have is that under the regulations issued pursuant to the Oil and Gas Wells Act, they give us the right to issue drilling permits. We could impose such conditions as we deem fit to the issuance of the permit but presumably if we would have some such power we do not think it would be advisable to exercise any powers of that kind at the present time.

Q Well it seems to me that the present situation is that the position of the small producer or refiner who can get his oil today at a dollar, can be affected by something which may be for the benefit of some larger land owner or producer in the Valley?

A It is quite possible. At one time there was one well in Turner Valley and soon after that there were several wells and the other wells soon were able to produce all the oil that could be used at that time. Now from that time on every well that has been drilled has of course required a restriction of the wells which have been drilled previously.

Q Well has it ever been considered by your Board as to whether the small producer or the small refiner when put in that position, that is his business is curtailed, when that is done, that he should not be entitled to get his crude oil from the people who curtail him at the cost of his oil to him, or at some other cost commensurate with that?

A We have not looked at the picture exclusively from the point of view of the small refiner or the big refiner, the small producer or the big producer. We think we have adopted a policy which at the present time under existing conditions is best for the industry as a whole.

Q Well is it a fact that, or is it the opinion of the Board, or

have you any opinion, whether in practice it is working out very much in favor of the larger and wealthier producer?

A No, the Board thinks not. You see the very producer which you suggest not only would curtail the production of the present small wells, - and in fact if it is a very small well it would take quite a few additional wells to curtail its production because a number of small wells are unable to produce as much oil as we are now willing to permit them to produce, but that procedure would also curtail the wells now owned by the big interests and would also result in less oil per well being produced from the wells that are to be drilled so that the only advantage to the big person by that procedure would seem to me to be the big interests would then produce a greater porcentage of the oil but also with a greater cost to the big interests and to everybody else.

Q It would seem to me to be that there would be two alternatives, one is that under the circumstances which I am giving you, the large corporation drilling a lot more wells, the one is that he forces the small producer to double his number of wells or to buy at more than his cost of his own product; would it be equally fair that he should say that if the larger corporation is allowed to produce far more oil from far more wells than the market requires, that that should not interfere with him but that they should arrange to store this surplus oil, if they want to produce it; in other words instead of putting the penalty on the small producer, that the large producer should provide his own storage if he wants to produce the extra oil?

A Well, of course, we consider that is not putting a penalty on any one well rather than any other well. The fact that the well is small or large we think should not be considered

and therefore we do not let it influence us as to who the owner of the well is. We try to treat all wells alike and if there is going to be a penalty on the small owner or on the small well there will be a proportionate penalty on all other wells drilled. Now I do not think we should take and adopt any policy that is going to treat one class of person in a field any differently from any other person, be they small or large, white or dark.

Q Take the very case that Mr. Mahaffy put to you, where a particular refiner has got enough wells under the best engineering practice to provide all the crude required by him?

A Yes.

Q Prima facie I suppose he should be allowed to condut his business as he likes?

A Without Government intervention, yes, he should be allowed to conduct his business as he liked but intervention must be in our opinion applied to all equally. It does not concern us whether the owner of the well has a refinery or has not a refinery and I do not think we will let that concern us.

Q But you allow the large corporation or the large owner to drill as many wells as he likes, although that might put the smaller wells out of production and the small refiner out of business under the present set-up?

A At the present time we will allow any person who has the property to drill a well subject to the regulations under the Oil and Gas Wells Act. We are not concerned with whether he is large or whether he is small and we are not concerned with the present drilling programme creating unnecessary wells in

the Turner Valley field, therefore we are not concerned at the moment with doing anything which will curtail the drilling of wells . We do not think in the interest of the industry as a whole that that would be desirable at this particular time.

Q Well if you are conserving to market , why equally should the conserving to market not be the market of the small refiner just as much as the market of the large refiner?

A I do not think it is proper to say that we are conserving to the market.

Q I accept that. Having regard to the market conditions; take this case now which seems to me to be the alternative of the one I am putting to you, if instead of doubling the number of wells, take the case of the Royalite, that instead of doubling the number of wells, they say, "well we will reduce by half the amount of crude oil that we will use from Turner Valley and we will take our supplies from the States or Sarnia", would that not be adopting a policy that will mean that the small producers and refiners would not be able to get their supplies?

A Of course it would naturally because if there is so much oil to be produced, each well's share of production would be reduced.

Q Would that indicate to some extent that the conservation at present is largely controlled by the major oil companies or a group of companies, rather than by the Board?

A Well if we, if the major companies are in a position to say how little oil is going to be produced they naturally are in control of that situation and certainly the major interests, operating the refineries as they do and operating the service stations as they do, are in a position to determine how much

oil they are going to use. It is therefore inevitable that they can be said to be in that position, but I do not think it is reasonable to assume that any person in the business will do something that is very unsound though.

Q Would there be anything unsound from the point of view of the large company with large resources, in drilling enough wells to insure their supply for ten or fifteen years ahead, Perhaps I should not ask you that, Mr. Cottle?

A No, I do not mind the question, Mr. Commissioner. When you say "drill enough wells to supply for ten or fifteen years ahead", I think there is a confusion there between drilling enough wells to supply the present daily requirements and the drilling of enough wells to satisfy ono's self that there is enough oil reserve there; there is just the question of which you have in mind. It would of course be foolish for so many wells to be drilled today with the small market, that many many times the market could be produced today when a fewer number of those wells would satisfy you as to the reasonableness of expecting the oil to be there if the holes were drilled.

Q Well on the present layout, supposing a company decided to go on with that policy of drilling a large number of wells, would that not mean that the value of the wells belonging to the smaller producing companies would be so much reduced in value that they would not be either able to carry on or would have to sell out at some small sum?

A With the static market, that point would rise eventually, yes.

Q So far that has not been taken into consideration by the Board as to whether there is any way out of that situation?

A No. So far the Board has not found it necessary to seek any way out of that situation because the Board does not think

that there are too many wells being drilled today; therefore the Board has not found it necessary to consider it, to consider that particular problem.

Q But the same result presumably can be brought about, can it not, by reducing the market that is supplied by the Turner Valley crude?

A It could be. I do not think that is something to reasonably, that can be reasonably expected however because curtailment of the present market would involve supplying that market at additional cost. There is a geographic territory which this market serves and it would obviously cost a person more money to bring oil to say Moose Jaw refinery or the Regina Refinery from Illinois than it would from here and so anything that any person would do for any ulterior motive would cost that person quite a sizeable sum of money.

Q It would have to be done for the ulterior motive of putting somebody out of business or something else like that?

A Yes, and I do not think it would arise. I think there would be cheaper methods of putting people out of business than that.

Q Now there is just one other point, Mr. Cottle, that perhaps you will help me with a little. As I understand it the Board is not concerned with price?

A Not at all.

Q And the only alternative of these small producers, if they are not prepared to drill more wells, is to pay that field price?

A That is right.

MR. SMITH: Small refineries.

Q MAJOR LIPSETT: Small refineries?

A Small refineries.

Q Or those who are small producers and have not enough production for their refineries?

A Yes.

Q Now that field price at the present time is fixed by the one company only?

A That is right.

Q And if the cost to the small producer, connected with the small refinery, is only say a dollar a barrel, they would have to pay that $1.30 for any surplus oil they required?

A That is right.

Q Is there anything, if it was desirable, is there anything to prevent that field price going up to $1.50 and making them pay 50 cents a barrel more than their oil would otherwise cost them?

A Well those things take care of themselves in my opinion. If the present price is a reasonable price, having in mind the economics of the industry, then an increase from $1.30 to $1.50 for the purpose of making the products cost the small refiner more money, immediately the whole field is going to have a smaller market because at the moment the oil from Turner Valley goes a certain distance, having in mind what the price is and having in mind what the competition is, and if the field prices are relatively increased just for that purpose, it is not only going to cost the small refiner more but it is going to cost everybody in the business more and somebody is going to lose a lot of money unless tank wagon prices are increased and if tank wagon prices are increased, the small refiner is in the same position as he was before because he is interested not in the price of oil but he is interested in the spread between the price he pays for oil and the price he gets for his product.

F. G. Cottle

Q Then on that alternative, that is the alternative that was in my mind, that by reducing the market which would have the effect of putting the field price up to $1.50, then the position of these small refiners and small producers is just equally bad?

A Well all of the things you mentioned not only increase the cost or decrease the realization of the small fellow, . they increase the cost or decrease the realization of the small fellow but they increase the cost or decrease the realization of the big fellow who is doing it and the very bigness of the big fellow makes me think that the big fellow is the one who is going to get hurt and therefore the big fellow, it seems to me, would not take those methods of embarrassing his competitors because it is going to embarrass himself just as much.

Q What you call the big fellow, would he really be hurt if he was a producer as well, one of the big producers in the Valley, he would get on the one hand 20 cents more for his crude oil?

A Yes.

Q In one pocket?

A Yes but he may find that he is buying crude for the distant portion of his market at a higher price and it means he would pay higher for that but not only that, the big fellow does not produce all his own oil and if he buys a portion of his oil the doubling of the price for that purpose would cost the big fellow a lot of money.

Q If he got 20 cents more for the half which he produced and paid 20 cents more for the half that he bought, he would be exactly as he was but the smaller man might be wiped out, would it work out like that?

A Just a minute now, you say if he got 20 per cent more for what

he purchased.

Q Himself, if he produces 50% of the oil and gets 20 cents a barrel more?

A But he does not get any more for it, I mean if he purchases half of the oil he uses, he does not get any more for it if he uses it himself. If he produces half of the oil he uses it does not matter to him what the field price is because that is not a factor at all and if he pays more for the half he buys then he is out of pocket the difference between what he is now paying and what he would pay.

Q Maybe there may be a perfectly good answer to it but as the thing stands out at the moment, it would seem to me that one or two companies by drilling more wells under the present Conservation System, can force the small refiner who is producing, to pay much more than what his oil would cost him if he were allowed to use his own oil?

A Well I think the answer to it is that it would cost that person much less to embarrass his competitors in a different way than merely drilling unnecessary wells to embarrass his competitors. Drilling wells is quite an expensive procedure.

Q Take a case like this, a concrete case which has been given to you, he has been producing within good engineering practices and he has produced oil at $1.00 a barrel. Now why, for the benefit of somebody else, should he have to pay $1.30 for part of the oil that he requires?

A He has to, simply because we have a Conservation Policy which must treat all persons alike whether they are refiners and own oil wells or whether they are not. I think that is the only answer to it. You are either interfering with a person's rights or you are not.

F. G. Cottle

Q Does not it really work out in this way, that not only does the present system give power to insure that wells are only drilled on permit, but on the other hand it gives power to the Board indirectly to impose a penalty on another producer because he will not drill more wells?

A I do not see that it gives the Board the power to impose a penalty because whether the Board is there or not, these wells are going to be drilled and perhaps they will be drilled even more readily than if the Board were there.

Q Except that this small refiner would be able to still use his own oil and now he is compelled to go to the large company and pay them the cost price plus a profit?

A Of course other conditions may arise which may more than offset that disadvantage to the small producer.

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Q I assume at once, Mr. Cottle, or accept at once that conservation must be an absolute necessity in this Province. There is no question in my mind personally of that at all. But I was just wondering if the Board had the power to do everything that would be equitable as well as everything that is good engineering?

A Well, the Board has blanket power in that section of the Act to regulate production of the individual oil wells. As far as regulation of production is concerned, I do not think any further power is necessary.

Q Is there power, do you think, that would enable the Board if they saw fit to say to some large organization "You cannot drill a well unless you are prepared to let somebody else use your oil at the cost price."

A We may impose conditions on the drilling permit. I presume we have the power to do that. But whether the power is there or not though the Board at the present time would not wish to exercise such power. The time may arrive when it will. I do not know. But I do not foresee it at the moment. At the present time it has not arisen.

THE CHAIRMAN: Any more questions?

Q MR. PLOTKINS: Mr. Cottle, is the Board concerned with preventing economic waste as well as physical waste?

A What do you mean by "economic waste"?

Q Yesterday you mentioned something about preventing undue accumulation of storage because storage costs a lot of money?

A Yes, I said I doubted if the increased efficiency in the field would be sufficient to justify the expenditure of a tremendous amount of money on storage.

Q So that you do take into consideration economic waste?

A No, I am just speaking common sense there.

Q Why should you concern yourself with storage then?

A We are not concerning ourselves with storage from that point of view. I also said in the brief that the Board is not in the business of storing oil. I made that observation, that the Board did not think it would be wise but if other people wished to do it the Board would not be concerned about it.

Q They would be concerned with economic waste and would be concerned with preventing too many wells being drilled, which has an effect on the cost of production. If you were concerned, as I understand the Board has maintained up till yesterday, that they were concerned with economic waste, they wanted to prevent the fall of prices and they wanted to prevent undue accumulation of storage and they wanted to prevent evaporation of production and those things are all economic?

A I said nothing about those that I recall.

Q Well, then, Mr. Knode has repeatedly in his testimony told us that was the aims of the Board. Maybe I am wrong in assuming that is the present policy. But if it were would it not be the duty of the Board also to weigh the effect of allowing too many wells to be drilled, or more wells to be drilled than is necessary for the economic production of the required crude?

A I do not know that I can answer that. You say if it were. Well, it is not.

Q You stated yesterday that the present number of wells cannot only take care of present requirements but considerably more?

A I said the present wells in the field can now, in the Board's opinion, produce more than the present rate of requirement.

Q Didn't you go as far as to say several times over, yesterday?

A No, I certainly did not.

Q Well, I understood you said considerably more than several times over. If that is a fact, why not restrict the number of wells so as to keep down the cost of production?

A You are making an assumption from what I have said that is not so. I said the present wells can produce efficiently more oil than the present requirements, but I did not say that there are too many wells.

Q No, I know that.

A For that purpose.

Q No, I did not understand you to say there were too many wells but I understood you to say that the present wells could and are capable of producing considerably more than even the top of 28,000, that was the top this year's allowable. Is that not so?

A I said they could produce more. Whether considerably more or not I do not know.

Q If that is a fact you will agree the more wells that are drilled the more capital costs have to be absorbed in the price of crude, if they are not required for the production of the market requirements?

MR. SMITH: Is that a static market?

MR. PLOTKINS: Not static, but the actual market.

A Perhaps that is true, but I do not think what you have in mind arises until I say I am of the opinion that the field can produce so much more than the present requirements that it would be advisable to curtail the drilling of more wells. Any field should at all times be able to produce more than the immediate requirements; otherwise, it is not in a healthy position. If I conveyed to you the impression

that there are now too many wells or that the field is capable of producing so much more than the present requirements that it is in an unhealthy condition, I am very sorry. That is certainly not what I had in mind.

Q You do not think at the present time a programme of curtailing drilling would have a beneficial effect on the price of crude?

A I do not know whether it would or not and whether it would or not would not concern me as a member of the Board.

Q You would not be concerned?

A No.

Q That is what I wanted to find out.

THE CHAIRMAN: That is all, thank you, Mr. Cottle.

.....

LAYTON ALLEN BOYD, having been duly sworn, examined by Mr. Mahaffy, testified as follows:

Q Mr. Boyd, I believe you are the Superintendent of the Gas & Oil Products Limited plant in Turner Valley?

A Yes.

MR. MAHAFFY: I may say, My Lord, that I was also calling Mr. Boyd in connection with the gas situation with respect to which he has numerous other qualifications, but I won't ask him to recite them now because the only point I am calling Mr. Boyd for is in connection with this crude situation.

Q How long have you been Superintendent of the plant, Mr. Boyd?

A Since 1934.

Q Do you recall this year that your company, the Gas & Oil Products Limited, purchased crude oil from the Royalite Oil Company?

A Yes.

L. A. Boyd.

Q Approximately how much oil was purchased, just in rough figures?

A I believe 38,000 barrels.

Q 38,000 barrels?

A I believe so, around that.

Q THE CHAIRMAN: When was that?

Q MR. MAHAFFY: When was that, Mr. Boyd?

A About May, I believe. It was in May, and possibly the latter part of April.

Q April and May, 1939?

A April and May, 1939, and June, roughly.

Q Approximately how much oil per day was taken?

A About 800 barrels. The allowables of the wells we were tied up to was about 800 barrels.

Q At that time, in your opinion, could the wells who were supplying oil to Gas & Oil Products under regular contract, could those wells have supplied sufficient oil to operate the refinery had they been operating on larger quotas?

A Well, not without storage. Without curtailment they could have, by storing oil produced months before, say along in January, and stored the oil until that time, they could have, yes.

Q What you mean is if they had been allowed to produce at a higher rate throughout the Winter, these purchases from Royalite would not have been necessary?

A I would not think so, no.

Q When you say producing at a higher rate, would they be producing on an efficient basis?

A Yes, they could produce at a considerably higher rate than they were allowed to produce at, and produce it efficiently.

L. A. Boyd.

In some cases wells that produce at a higher rate produce more efficiently, the gas/oil ratio comes down.

Q Will you describe to the Commission just where this oil from the Royalite was obtained. In other words, I want to know where the oil was produced and where it was in relation to your plant and where you took delivery of it, the whole detail in connection with the transaction?

A Well, we took it from the south part of section 5. They have a tank battery, separators and what we commonly call "flow tanks." The oil comes in from Well No. 33 and No. 34, and I believe 37. The gas and oil comes into the separator for each well and the gas and oil is separated and the gas goes to the gasoline plant or for other use, and the oil goes to the flow tank. In reaching the flow tanks the pipe line department takes it, or we took it up at that point, at the pipe line.

Q Just before you leave that, flow tanks, I want to get what you mean by that. We all know when we go out and see a well in Turner Valley that there are tanks at the well head. I assume the oil when it comes out of the well and goes through the separator is put into those tanks?

A Yes.

Q Are those what you call flow tanks?

A Yes.

Q And from Royalite 33, 34 and 37-----

A I think 37 was one well, but I am not positive about that third well. But 33 and 34 I know.

Q Have I got it right, those three wells were operated separate but as a unit?

A Yes, they had a central battery.

L. A. Boyd.

Q What is the idea of doing that?

A Well, it brings the oil and the separators at one point where one operator can look after a number of wells.

Q It is for purposes of economy?

A One battery of tanks can be used by more wells and one crew of men can take care of more wells and reduces operating costs, the primary object of that is.

Q So that if a company in that particular area had only one well, we would have the same type of equipment?

A Yes.

Q But when they have three wells they run all three wells into the same equipment, is that it?

A Run it up to a common point and separate it. They have individual separators for each well. They do not use common separators but they do use in several cases common flow tanks.

Q That was the situation in connection with these wells you are speaking of?

A Yes.

Q How far is this flow tank, or are these flow tanks from the Gas & Oil Products' plant?

A A little over a mile.

Q Where did the Gas & Oil Products Limited take delivery of that oil from the Royalite Company?

A At the tank battery.

Q At the flow tanks?

A At the flow tanks, yes.

Q What had to be done in order to take delivery of that oil from the Royalite to Gas & Oil Products?

A Well, we had to lay a line from our present line to this point, this battery.

L. A. Boyd.

Q You laid your oil line right to the flow tanks, did you?

A Yes.

Q On the Royalite property?

A Yes, to the outside fire-wall.

Q Where was delivery of the oil taken?

A Beg pardon?

Q Where was delivery of the oil taken into your line?

A I did not clearly get your question there.

Q At what geographical point was delivery of the oil taken by you from the Royalite Oil Company?

A It was taken at the battery there.

Q At the flow tanks?

A At the flow tanks.

Q Yes, I see. What did the Royalite have to do in order to deliver that oil to you, if anything?

A Well, really nothing but pump the oil. We tied up to the pump, to their discharge,and they pumped the oil.

Q Pumped the oil from the flow tanks?

A Into our line.

Q Have you any figures on what the cost of the pumping would be?

A I do not think it would be over one-fourth of a cent per barrel, probably.

Q A quarter of a cent a barrel?

A Yes.

Q Do you do that type of thing in connection with other wells, do you do that type of pumping?

A Yes, we instal our own pumps ordinarily.

Q You instal your own pumps usually. Who installed the pump in this case?

A Well, we had intended to but the Royalite said they would do the pumping of the oil for us. They had the pumps

sitting there and they were idle and would pump it.

Q And they turned down your suggestion that you would pump it into the line yourself?

A Well, I would not say exactly they turned it down. They just told us they would pump it. I do not know the exact details now.

Q Do I understand you the oil was then transported in the Gas & Oil Products' own line from the oil tanks to the Gas & Oil Products' plant?

A Yes.

Q You have had considerable experience, Mr. Boyd, in oil field production work, I believe?

A I have had considerable experience, yes.

Q In what fields have you had experience?

A In the Oklahoma fields and the Big Lake field of Texas, and the Winkler field and the Hobb field in New Mexico.

Q In view of your experience there and also in Turner Valley, and keeping in mind the particular facts we have just now been discussing, would you say that in the handling of that oil the Royalite did anything more than a purely production action?

A No, I would say that was all in connection with production in that case, yes.

Q THE CHAIRMAN: What about that pumping, which he says is worth a quarter of a cent?

MR. MAHAFFY: Except the pumping?

A Except the pumping, yes.

Q That is all, thank you.

Q MR. PLOTKINS: Mr. Boyd, is it not common practice for every producer in Turner Valley to

pump oil to the gathering lines at his own expense?

A Well, I would not say that it is common. Probably it is a pretty common practice. It is done in numerous cases but I would not say it is a common practice. It is not a general practice in oil fields in Oklahoma or in Mexico. It is quite prevalent, I will say that, in Turner Valley.

Q In the United States is it not the general rule that the pipe line either furnishes the pump to the producer or pays the producer to pump the oil from his storage battery into the pipe line?

A Well, my experience in the States is pipe line companies in all cases furnish the pump.

Q Do they pay the producer to do the pumping. In other words, supply the steam for the pump and supply the labor?

A No, that is generally supplied, in many cases the pumping is done by the producer. The pipe line department instals the pump and the tank is gauged by the gauger in the presence of the local operator, or whatever you want to call him, the pumper, and the tank is sealed and the pump is started and the pumper or gauger looks after the pump until the tank is empty. The gauger comes back and gauges the tank off and says "Close it." And that is the regular procedure in the south-west.

Q What is the practice in Turner Valley?

A Well, it is very similar. The gauging procedure in some cases is a little different than in the States. We, in our case, buy oil from the Royalite, and our gauger goes and checks with the Royalite gauger and not with the well operator. In some cases, in the case of the National Pete, we buy oil from the National Petroleum No. 1 and they pump the oil.

L. A. Boyd.

Q Do you supply the pump to the National Pete?

A No, they supply the pump.

Q Do you supply any of the labor , supervision of pumping?

A Not in that case. We do nothing. Just gauge the oil in connection with their well operator and they agree on the gauge and the temperature of the oil and so forth, and it is all pumped out by the National Pete.

Q MR. FRAWLEY: Did you conduct the negotiations for your company with the Royalite for the purchase of this oil?

A No, I had nothing to do with it.

Q That was done in Calgary?

A In the Calgary office.

Q Was the arrangement reduced to a contract?

A I cannot tell you that.

MR. FRAWLEY: Do you know if it was, Mr. Mahaffy?

MR. MAHAFFY: I do not know.

MR. FRAWLEY: Was there a contract covering this?

MR. MAHAFFY: As far as Mr. Mayland knows, there is nothing in writing. The arrangements were made by Mr. Kemp, the secretary of the company, at 6 cents premium over the field price.

Q MR. FRAWLEY: As far as you know, was there any contract entered into between the companies?

MR. MAYLAND: There may be a letter, but I would not say for sure.

Q MR. FRAWLEY: Nothing more but a letter. This purchasing continued day by day for a period of about two months I understood, and perhaps more?

A That would be hard to say, Mr. Frawley, definitely. I imagine two months, probably.

Q Do you know whether the Royalite Company put through the 6 cent charge on the basis of a service charge or simply as a bonus that they were demanding from you because they had the oil?

A I cannot tell you a thing about it. I do not know a thing about that, what they based their charge on, or anything.

Q You do not know whether it was demanded from your company as a charge for services, much or little, that they were rendering your company?

A No, I cannot tell you. I do not know. We fellows out in the field, both Royalite and ourselves, knew very little about it.

Q You have explained very well the extent of the service, just exactly what happened physically. What I would like to know is what it was called between the parties when they were negotiating. How about the other company?

THE CHAIRMAN: I understand the total service rendered was, in your opinion, only worth a quarter of a cent?

A I would say that.

THE CHAIRMAN: He spoke of something before and I want to be sure you are covering all the service rendered to your company when you say a quarter of a cent is a reasonable figure.

Q MR. FRAWLEY: That is so, is it, Mr. Boyd?

A I would say it was.

Q Perhaps you told Mr. Mahaffy, but it cost you something then to get it the mile from the battery of tanks to your own property?

A Yes, of course, we had to lay the pipe line, and it costs money to lay pipe lines. We have a gathering charge, or a transportation charge in that from the tank battery to

L. A. Boyd.

our plant.

Q There was some pumping, or did the pumping you speak of get into your own tanks?

A No, the pumping was independent entirely of the cost of laying the pipe line.

Q But you said the pumping got it from their battery of flow tanks into your line. Did it get it into your tanks?

A Yes, it pumped it all the way.

Q When you were dealing with the National Pete, or any of these other companies, did you take it on the same basis. Did you put your own line to their battery?

A Yes, we put our line to their pump. In that particular case I do not think that there is any mention made of pumping by either party. They did the pumping. They had the pump in and they suggested we just tie up, and seeing the small job of pumping we put it to their pump.

Q Did you pay them anything more than the field price?

A Not that I know of. As far as I knew it was on a gravity basis but there was no charges that I know of.

Q As far as you know the Gas & Oil Products only pays the National Pete the field price?

A Yes.

Q And pays them no extra charge for handling or bonus or premium?

A No.

Q And does that go for other companies that the Gas & Oil Products has arrangements with?

A I do not know of any bonus or premium we are paying any other company. In some cases, the Model Spooner Reward No. 2, we installed our pump in that case.

L. A. Boyd.

Q You paid that company, I presume, nothing but the field price?

A The field price, yes.

Q Were any of these other wells as far away as a mile?

A These other wells, we had 3 miles of pipe line.

Q But whether they are near or far, you say you paid none of these other companies with whom you had arrangements anything but the field price when you go to their own property?

A As far as I know. I have never seen the contract and never heard of nothing. We generally hear of it indirectly at times. But I do not think I can answer your question.

Q Here is something you, perhaps, do not know anything about, but did your company take the matter of this----you felt that the charge was excessive, that 6 cents?

A Yes, I would say I did.

Q And the company as a company felt it was excessive, I take it? Were any steps made to bring the amount of that charge to the attention of the Public Utilities Board?

MR. MAHAFFY: No.

A Not on my part. Of course, I discussed it with Mr. Kemp in our head office and we were all in agreement that it was an excessive charge, but I do not know what was done from there on.

Q MR. FRAWLEY: As to whether there were any protests. As to whether the 6 cents was accepted by the company or whether it was the result of a considerable amount of controversy between you and the company, your company and the Royalite, you do not know either?

A I would not know that, no.

Q MR.COMMISSIONER LIPSETT: In the case of the other two

companies you mentioned, Mr. Boyd, one was the Petroleum Company, was it?

A The National Petroleum.

Q And what was the second?

A The odel Spooner Reward.

Q In both those cases did the well as such provide the tanks?

A Yes.

Q The flow tanks?

A Yes. That is what we consider part of the production department and nothing to do with pipe line. In our own wells that we control we divide our set-up at that point. Up to and including the flow tanks it is production department.

Q Is that the case with regard to every well in the Valley, as far as you know?

A As far as I know, yes.

Q In the case of these two wells, in the one case they provided the pump?

A Yes, the National Petroleum provided the pump. In fact they had the pump installed. If they had not I would say then if they had not the pump installed I would say we would presumably have had to instal the pump.

Q In the other case you did instal the pump?

A Yes.

Q But in both cases did the company do the pumping?

A Yes, they supplied the power to pump the oil.

Q Being as well the service that was given in the other case was to actually put the oil into your gathering line?

A Yes.

Q When it was put into the gathering line did it get to your refinery by gravity or did they have to pump it all the way?

L. A. Boyd.

A It was pumped. Some of the wells will come in but most of them have to be pumped.

THE CHAIRMAN: Excuse me. Did Mr. Cottle make that enquiry, Mr. Smith?

MR. SMITH: Yes, but he could not find the other member of the Board. He may be out doing that again. But he could not locate Mr. Dingman.

Q MR. NOLAN: There were one or two questions that I would like to ask Mr. Boyd. Do you have an arrangement with the Model Spooner Reward and the National Pete to take their oil from them, Mr. Boyd?

A I do not know about the National Pete now. There was a contract. We at least took the oil.

Q You take all the oil they produce?

A Not all the oil,

Q What do you take?

A We take all the oil from Model Spooner Reward.

Q But not all from the National Pete?

A I presume we are at the present time, but we have not for the last, we will say six months. We have not got all their oil from the National Petroleum.

Q Because you have had some other oil that you could use?

A No, they sell, they were at one time selling to the Richfield Oil Company and they sell some in drums.

Q You get all that is available from the National Pete?

A That is what I understand.

Q And all there is in the Model Spooner Reward?

A Yes.

Q I am informed that your company began to take from these three Royalite wells, Nos. 33, 34 and 37, on the 6th of May of this year, would that be about right?

L. A. Boyd.

A That would sound reasonable.

Q And that you stopped taking it on the 13th of June of this year?

A I do not know, I have not looked it up.

Q Approximately. Why did you stop taking it from them?

A We had sufficient oil coming in at that time. We had accumulated enough oil.

Q You had sufficient oil of your own at that time that you did not require to take any more from the Royalite, that is right, is it not?

A Yes.

Q And you have not taken any more since the 13th of June?

A No, not since the 13th of June.

Q And you won't take any more unless your own supplies fall short of your own requirements, that is right, is it not?

A Well, I cannot tell you that. That is a matter of policy. But that would probably be right. However, that is something I cannot very well answer.

Q Is this storage battery, as we call it, connected with the Royalite gathering system?

A I cannot tell you that.

Q You do not know that?

A No. The lines are all buried and I cannot tell you.

Q Mr. Boyd, what is the difficulty about your getting a supply of crude. Why don't you connect up with some other wells and make contracts with them?

A I cannot tell you that. That is not in my department.

Q You do not know about that?

A I do not know about that.

Q Did you ever hear of the Command well No. 1?

A Beg pardon?

Q You know Command No. 1?

L. A. Boyd.

A I know where it is located, yes.

Q It is a good well?

A A very good well.

Q It has a large production?

A I do not know exactly what the production is.

Q Do you know whether the output of that well was offered to your company, or to Mr. Mayland, when that well came into production?

A I do not know, no.

Q Did you ever hear that it was?

A No, I do not believe I ever did.

Q Mr. Reeve is the gentleman who controls that well, isn't he?

Q Who?

Q Mr. Reeve?

A Reeves.

Q Is it Reeves?

A I think so.

Q You know nothing about that transaction?

A I do not know anything about any deals being offered, no.

Q You do not know whether Mr. Mayland or any of his companies, including Gas & Oil Products Limited, was offered the production from Command No. 1 well?

A No, I did not know about that.

Q All right, thank you.

MR. SMITH: Mr. Cottle has made that enquiry, Mr. Chairman, and can give you the answer.

THE CHAIRMAN: Well, there may be some questions that we will want to ask Mr. Boyd, so you will please stand down and we will resume at two o'clock, Mr. Boyd. All right, Mr. Cottle.

MR. COTTLE: In answer to Mr. Mahaffy's question as to the availability of information in the office of the Board, I have consulted with my colleague and I may say that all of the computations underlying any pro-ration schedule are available, and always have been available to any interested person. We do not publish the details of the information because they are voluminous but we are at all times willing and have at all times been willing to discuss the computation and the basis for the calculation of the individual allowables of the pro-ration schedule.

THE CHAIRMAN: Does that answer your question?

MR. SMITH: I think that is what you want?

MR. MAHAFFY: Yes, that clears up that point. I may say we have different information from men in the field but they may have been incorrectly informed.

THE CHAIRMAN: Whether incorrect or correct, that is the position of the Board to-day.

A I am referring to the office in Calgary. I do not think any permission has been given to the men in the field or the field staff to release information, nor does my statement cover other information. That does not mean that the Board's complete records and complete files are available to the general public or individual operator.

MR. MAHAFFY: All the information that explains how the allowable is arrived at for any well is available?

A That is right.

(At this stage the Hearing was adjourned until 2:00 P. M.)

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MR. FRAWLEY: I do not know what has happened. It was understood that Mr. Boyd would be finished at 2 o'clock. There is not much I can do except to go down to the office and make certain that he understood that. He may have thought that he was through.

THE CHAIRMAN: Very well. Unless you have some other witness.

MR. FRAWLEY: I have another witness here but Mr. Harvie is interested in the evidence he is to give and unfortunately Mr. Harvie just got word that his boy had been injured and took my car and has gone home but intends to return as soon as he can. I feel like deferring calling this witness until Mr. Harvie has returned but in the meantime I will find out about Mr. Boyd. Mr. Mahaffy has now come in.

MR. MAHAFFY: I am sorry I was a little late my Lord. Mr. Kemp and I were digging out what documents we could find in respect to this transaction.

THE CHAIRMAN: Yes. Now any further questions of this witness, Mr. Boyd.

MR. MAHAFFY: I have no further questions.

MR. FRAWLEY: No further questions. We will have another witness to prove these matters.

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LAYTON ALLEN BOYD, having been recalled, examined by the Chairman, said:

Q Mr. Boyd, you heard Mr. Cottle yesterday, did you not?

A In the afternoon I think.

Q You are familiar with what he said about, you are familiar with his formula?

A Yes.

Q As to how it is arrived at?

A Yes, although we have never received the factors that are used. The factors are variables as they relate to the total amount of oil produced in the field, the bottom-hole pressure and acreage and various other factors, particularly the amount of oil, the total amount of oil produced in the field and we have never received that in our company and we have never been able to obtain that from the field representatives or from the Conservation Board.

Q That is to say you have not got from them the conclusions that they arrived at in the application of this formula?

A No, we would have to have that and the Conservation Board so far as I know are the only persons who would have that information.

Q But what I want to arrive at, have you anything to say as to the formula as to its application, that you think would be of assistance to us?

A Well no, I do not think I would be competent to question the formula.

Q I see?

A I do not think that. It would need to be a petroleum engineer and a geologist and his opinion would be worth more than mine.

Q And you are neither of those?

A Neither a petroleum engineer nor a geologist.

THE CHAIRMAN: Mr. Nolan.

MR. NOLAN: Nothing, thank you.

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WILLIAM KEMP, having been recalled, examined by Mr. Frawley, said:

THE CHAIRMAN: Before you go on with this witness, Mr. Nolan, what tag ends have you outstanding?

MR. NOLAN: None, sir.

THE CHAIRMAN: None?

MR. NOLAN: None. There are some tag ends outstanding so far as the Commission is concerned itself but the information has been in the hands of Mr. Cottle for some time and at a convenient moment will be put in. By that I mean that all the information required from me has been in his hands because he needed it to work on during the recess but it should be formally marked and I have intended to speak to Mr. Cottle about it.

THE CHAIRMAN: Aside from that, there is nothing outstanding?

MR. NOLAN: No, I think not and I think Mr. Frawley will have found on his desk the letters which I wrote with certain information.

MR. FRAWLEY: Yes.

MR. NOLAN: And you will remember again, sir, at the last moment before we adjourned, I did put in nearly everything which had been required. I took some time, as you will remember, and

W.Kemp

there were a lot of Exhibits marked from material of mine which had been gathered for some time.

MR. FRAWLEY: Yes. There is only one thing of course, I told Mr. Nolan, when I was making the agenda for this Sitting that I hoped to have received from him any submission which his company chose to make with respect to either the Fuel Oil Tax Act or any other Provincial Legislation which bore upon the oil industry either by way of criticism or constructive suggestion to the Commission, as to what should be done. Now I merely give my friend notice that he should make that, those submissions at this Sitting or forever hold his peace and if he holds his peace I would not object to that either but if he has any statements to make he should make them at this Sitting and so long as that is understood all right.

MR. NOLAN: I will hold my peace if everybody else will hold theirs.

THE CHAIRMAN: Oh well, we have made it clear that we would be very interested----

MR. NOLAN: Oh I know.

THE CHAIRMAN: In having the views of anyone,refiner, producer or anyone else in the industry, that will be to the advantage of the industry in any way and of course if we are going to have those we should have them at a time when they can be examined by one whom Mr. Frawley thinks capable of doing it.

MR. FRAWLEY: I think that is the only other burden on my friend at all at this time.

THE CHAIRMAN: All right.

MR. MAHAFFY: My Lord, just one word perhaps as to the evidence which will be given. It has been suggested indirectly and it may be established that Gas and Oil Products, Limited was required to pay a 6 cent bonus to the Royalite in connection with crude oil purchases this Spring but it has not come out, I might say directly all I am calling Mr. Kemp for is to prove that that oil was bought and that a 6 cent premium was paid on it.

THE CHAIRMAN: Well I take it we will have evidence as to what the designation is, whether a premium or a handling charge or what it is, a charge, and if there is correspondence covering any relationship--

MR. FRAWLEY: Mr. Kemp will now state as a fact that it was paid.

THE CHAIRMAN: All right.

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WILLIAM KEMP, having been recalled, examined by Mr. Frawley, said:

Q You have been sworn before, have you, Mr. Kemp?

A Yes.

Q You are the Secretary of Gas and Oil Products, Limited?

A Yes.

Q And I believe there is another concern connected with your Company, namely the U. P. Oil Company, Limited?

A Yes, that is one of our associated companies.

Q What is the relationship, I mean what is the function performed by the U. P. Oil Company?

A The U. P. Oil Company is simply an oil brokerage firm that is used by our offices to purchase crude at the

field.

Q For Gas and Oil Products, Limited?

A No, from all of the associated companies that we have, and from various other companies in the field.

Q I say purchases for Gas and Oil Products, Limited?

A Yes.

Q Now I believe that the U. P. Oil Company, Limited, purchased crude oil from the Royalite Oil Company in May and June of this year?

A That is correct.

Q Did you have something to do with the arrangement for the purchasing of that oil?

A Yes I did.

Q And what was the price paid for that oil to the Royalite Oil Company?

A According to the invoices which we have here addressed to the U. P. Oil Company from the Royalite Oil Company they are paying field price plus 6 cents per barrel, according to the gravity of the oil supplied.

Q Now is there any written contract between the two companies in respect to this transaction?

A No, not that I know of.

Q THE CHAIRMAN: And what is that 6 cents designated as when it is charged to you?

A There is no designation at all, sir, so far as the invoices are concerned. It is simply, we will take this one invoice for instance----

MR. FRAWLEY: Put one in or a whole batch of them, it will not make any difference.

MR. MAHAFFY: Now Mr. Frawley, if you

think it advisable that they should go in they will have to go in but I understand these invoices have not yet been audited and while, if they will be of any assistance, we will put them in, otherwise we would prefer not to.

MR. FRAWLEY: No. The Chairman asked how it was designated and it seemed to me the documents would best show it. However we do not want them in.

Q MR. MAHAFFY: Well show the document to the Chairman.

(Witness hands document to the Chairman).

THE CHAIRMAN: Well the invoices which you have shown to us merely discloses that there is a charge to you, without distinguishing between the price of oil, handling or anything else?

A That is right, sir.

Q MR. MAHAFFY: Mr. Kemp, you say there was, I do not know that it is necessary for me to ask this question, I didnot want to ask him questions concerning this and then have your Lordship suggest I should produce the document, there is in fact no written contract between the companies with respect to this transaction?

A No.

Q The arrangement was made verbally between you and some official of the Royalite Oil Company?

A Mr. Macleod, yes.

Q THE CHAIRMAN: By this witness?

A Myself and Mr. Jones.

Q THE CHAIRMAN: All right, what

arrangement did you make?

A My rrecollection of that is, sir, that we were, we required some crude for Gas and Oil Products plant in the Valley and we, at least Mr. Jones and myself, went over to see Mr. Macleod and endeavoured to purchase some crude from him and to arrange for the price of it.

Q Yes?

A And Mr. Macleod said he could supply us with the crude at the same price that he was supplying other parties in the field and mentioned the field price plus 6 cents a barrel.

Q Yes, and any discussion as to what that 6 cents was for?

A No, I cannot recall any discussion that we had on that particular phase of it.

Q The field price plus 6 cents?

A Yes.

Q That is what you are buying it for?

A Yes, and if I remember correctly Mr. Macleod mentioned the Becker Oil Company at that time; apparently they were supplying them at that same price.

Q MR. MAHAFFY: Why were you going to the Royalite for crude oil at that time, Mr. Kemp?

A That seemed to us to be the only source that we could purchase any of this oil.

Q Was the oil required at that time in your refinery operations?

A Yes.

MR. MAHAFFY: That is all, thank you.

THE CHAIRMAN: I suppose it all comes

back to your allowable, why did you not store up oil so you did not need to buy it.

MR. MAHAFFY: That is the whole point, sir.

THE CHAIRMAN: What does the witness say.

WITNESS: It seems to me that we had no other source of supply. The wells which we had, that we could get crude from did not supply us enough for our requirements and we had to purchase it from outside.

Q THE CHAIRMAN: Were the wells incapable of producing the oil or what was it?

A We were taking all that we could get from the wells under the orders of the Conservation Board.

Q MR. FRAWLEY: Mr. Kemp, when you had your discussion with Mr. Macleod did you not query the 6 cents and ask him what that was for?

A No, I am afraid I did not at that time, Mr. Frawley.

Q And nothing passed between you at all as to whether it was a straight addition to the price by way of bonus, profit, or a charge?

A No, the only comment which was made so far as that is concerned was that that was the lowest price they would sell it at to us and we could do nothing else but purchase it at that price.

Q Well in the absence of any discussion, was the impression left with you that it was just an addition to the price that for some sufficient reason, Mr. Macleod was making?

A I cannot recall any direct discussion on that question at all at the time.

Q Did Mr. Macleod realize you were running your lines right through his, to the flow tank of his well?

A That question was also discussed as to where we could take the supply from and I think it was, at least it was decided at that time that the most convenient place would be from the tank farm on Section 5. I think Royalite 33, 34 and 37 are all connected with that farm.

Q So that would it be fair for me to assume then, you see the question is raised as to why you did not refer the matter to the Public Utilities Board or discuss the propriety of the 6 cent charge with the Public Utilities Board. We were told this morning your company did not do that; your company did not do that?

A No.

Q Perhaps it is quite wrong to make that suggestion to you, that this was not a service charge at all, and if this was not a service charge it was not something that the Utilities Board could possibly be concerned with, what do you think about that, was it a bonus or was it a service charge?

A Well so far as we were concerned we were simply trying to purchase oil and if a man states a price, states a certain price for that oil that they want for it then we have to pay it and that is the attitude which we took on that. If that was their price that was all we

could do, was to buy it at that price.

Q Let us be clear, if Mr. Macleod said "My price is the field price and we are going to charge you 6 cents for handling it", I suggest to you it was not all that you could do, you could go to the Utilities Board?

MR. MAHAFFY: I do not want to interrupt but I do not think my learned friend should put the question to the witness in that way because personally I do not think that we could go to the Utilities Board.

MR. FRAWLEY: No, because I am getting the impression that it was not a service charge.

MR. MAHAFFY: Even if it was a service charge I do not think we could go to the Utilities Board.

MR. FRAWLEY: Perhaps we need not reach that.

Q MR. FRAWLEY: But is it proper for the Commission to gather from what evidence you can give us, that it was not a service charge but it was a premium or bonus that the Royalite was adding to the price?

A That is my impression.

Q Speaking for myself that is certainly my impression also?

A Yes.

Q That being so, then you say you had nothing to do with it but accept it?

A That is all.

Q Might I see the invoice please, oh I see, well then this simply says, reading one of the invoices of the

Royalite Oil Company, 1st of June, 1939, to U. P. Oil Company, Limited, to Crude Oil deliveries made 31st May, 1939, Royalite 37, 670 barrels, Turner Valley crude oil, gravity 43 at $1.26, $853.02, run ticket No. 119; now to save me the trouble of looking at the posted price as of the date of this invoice, would we find that the posted field price for 43 gravity was $1.20?

A $1.20.

Q It is obvious it is just a price and not an added service charge at all?

Q MAJOR LIPSETT: Mr. Frawley, can you check that with reference to the other field prices. There are four prices in the invoices altogether, one, 39 gravity at $1.18; one 41 gravity at $1.22; one, 42 gravity at $1.24 and the other one 43 gravity at $1.26, are each of those 6 cents more than the posted field price?

WITNESS: The copy of the posted field price which I have before me, sir, shows, commencing with 40 gravity at $1.14. Have we any 40 gravities?

MAJOR LIPSETT: No, you have one at 39, one at 42 and one at 43.

A Well give me what you have there, Mr. Frawley.

Q MR. FRAWLEY: 43?

A The posted field price for that is $1.20.

Q 42?

A 42 at $1.18.

Q 41?

A 41 at $1.16.

Q MAJOR LIPSETT: Then the other is 39?

A My price list does not give 39 gravity. It stops at 40 but with the 2 cent spread----

Q MR. FRAWLEY: You are satisfied that these are your invoices and that in each case the posted field price has added to it 6 cents?

A 6 cents.

Q And the invoices are made out in that way?

A Yes.

Q Now is there any other correspondence passing between you evidencing the contract or your arrangement between you and the company?

A None at all. It was all verbal.

Q The U. P. Oil Company bought it from the Royalite Oil Company. You spoke about a brokerage arrangement. I suppose the oil was the property of the U. P. Oil Company, and they again sold it to Gas and Oil Products, Limited?

A Yes.

Q Made out its own invoice to Gas and Oil Products, and sold it?

A Yes.

Q At perhaps some increase in price?

A There is a small handling charge on that.

THE CHAIRMAN: Any further questions?

MR. NOLAN: No, thank you.

MR. FRAWLEY: That is all.

MR. MAHAFFY: That, my Lord, is all the evidence I want to bring before you in connection with the crude price. Perhaps it would not be out of place for me to say just a few words, to summarize our contention with respect to this particular matter.

THE CHAIRMAN: The crude matter?

MR. MAHAFFY: Yes.

THE CHAIRMAN: Oh I see no objection. I suppose other counsel would like to know your view if you wish to argue it now.

MR. MAHAFFY: I am not just fully familiar with the procedure which you are adopting. If the Commission wants to close up this point now I can summarize very briefly the points we are making.

THE CHAIRMAN: We cannot close it out now. We can close out what your witnesses had to say about it now but there will be a lot more to be said about crude before we finish so it is your pleasure entirely.

MR. MAHAFFY: I will just say this at this stage, sir. There seemed to me yesterday and----

THE CHAIRMAN: We hope to hear you some time of course.

MR. MAHAFFY: Yes. Well I would like to summarize the thing at some stage of the proceedings but I would like to clear up one point, on which I may be wrong, it may have been misinterpreted and I think perhaps it was; there has been a suggestion made at different times that we should have gone or could have gone to the Utilities Board in connection with this 6 cent charge

and it seems to me that possibly Mr. Frawley, and I am not sure but what perhaps my Lord and Mr. Commissioner may have perhaps been under the same misapprenhension or they may not have been.

THE CHAIRMAN: I do not know where I got it but presently I definitely had the impression that this 6 cents was a charge as a pumping or handling charge or both?

MR. FRAWLEY: By a company which has been made a Public Utility.

THE CHAIRMAN: Yes.

MR. FRAWLEY: If I might interrupt you, Mr. Mahaffy, I am inclined to think, just my own view at the moment, after looking at these invoices, that it is a matter which does not concern the Public Utilities Board at all. It is just an extra price you are being charged.

MR. MAHAFFY: Well there may be some confusion. Your Lordship remembers when it arose last Spring I made application to you to hear further evidence with respect to the pipeline charge, suggesting that it should be divided between the gathering system and the pipeline proper. Now as I say, I may be wrong but I want to make it clear, that particular point has nothing whatsoever to do with the point we are now discussing, that application----

THE CHAIRMAN: As it now appears.

MR. MAHAFFY: Yes.

THE CHAIRMAN: Yes, I understand.

MR. MAHAFFY: But that----

THE CHAIRMAN: You say even if it was a pumping or handling charge it has nothing to do with transportation anyway.

MR. MAHAFFY: That is right, sir but that other point was in cases where we had surplus oil of our own and we wanted to get it into Calgary over the pipeline and then I suggested that it would be proper to divide the gathering charge and the pipeline charge. Now this point is entirely different. This is where we are purchasing oil and getting it.

THE CHAIRMAN: Oh certainly. You say----

MR. MAHAFFY: At the field price?

THE CHAIRMAN: You say the 6 cents is only of interest to us because you say this is one of the iniquities of the working out of the present conservation system.

MR. MAHAFFY: That is right.

THE CHAIRMAN: Under the present system.

MR. MAHAFFY: That is right. I see I need not have mentioned it but I thought there was some confusion between the other angle and this one.

THE CHAIRMAN: Oh no. Now with regard to your summary, we will always be glad to hear it, but I just wonder as to the appropriate time. You would want to be heard after all the evidence of production is in, all the evidence touching on conservation and all the evidence touching upon anything that interests you but if on the other hand you want to make a summary now and go away and forget it, why all right, unless Mr. Frawley has a witness waiting we will be glad to hear you.

[illegible]

[illegible]

[illegible]

MR. FRAWLEY: I have a witness waiting.

THE CHAIRMAN: You have?

MR. FRAWLEY: I have, but there is this other matter, in courtesy to Mr. Harvie I would be inclined to defer this other witness until Mr. Harvie can be here. He is coming right back. However, I would like to hear Mr. Mahaffy's even if it is only filling up the time we have.

THE CHAIRMAN: All right.

MR. MAHAFFY: I am not in any hurry, sir.

THE CHAIRMAN: You will be speaking prematurely, that is all.

MR. MAHAFFY: I would be inclined to wait if there is to be a time set aside for putting in argument.

THE CHAIRMAN: There is to be.

MR. FRAWLEY: Yes, I am afraid there is.

MR. MAHAFFY: Then I would prefer to wait until that time.

THE CHAIRMAN: Unless we change our minds we propose to allocate at least ten days to hearing counsel.

MR. FRAWLEY: Well if that is all----

MR. MAHAFFY: Yes.

THE CHAIRMAN: We certainly want to hear you.

MR. MAHAFFY: Well it is just this one particular point.

THE CHAIRMAN: Now I want to be clear on this one thing before you leave, Mr. Mahaffy, and you,

Mr. Frawley, with regard to the gas-cap. Now as I understand it, it is anticipated, as Mr. Smith suggests, that the Board will do that which they have in mind at the time that they state in their notice, namely, the 25th of September, whether they appoint someone else to act in the meantime or not.

MR. FRAWLEY: Yes and they will hear representations and so on so as to enable them to do what they suggest.

THE CHAIRMAN: Then we should try and find out when Mr. Mahaffy is to bring his witnesses here if he has occasion to.

MR. FRAWLEY: Here?

THE CHAIRMAN: Before us. We have said we will give him a Hearing. Well now, supposing nothing is done on the 25th of September, what is your understanding?

(Go to number 13,231)

MR. FRAWLEY: My view is this that --

THE CHAIRMAN: We do not want to leave this in the air.

MR. FRAWLEY: If on the 25th of September an order is made and it is quite in conformity with the submissions Mr. Mahaffy will make to them that is an end of it. If it is not in conformity then I understand you invite Mr. Mahaffy to come back and make his complaint here. Now suppose that would be two or three days after the 25th. I think that you may be faced with the difficulty of Mr. Cottle's absence. I think even though it will be an order made by the hand of some person other than Mr. Cottle - well I do not want to become too involved in this because I am not acting for the Conservation Board, that is Mr. Smith's problem.

THE CHAIRMAN: What I am wondering now is having witnesses available and getting on with the job.

MR. FRAWLEY: Mr. Mahaffy could have his witnesses here at very short notice.

THE CHAIRMAN: Are you calling any witness on the general subject of Conservation? You say its effect is to cost us six cents. But are you saying what is wrong with it and what is the right way to go on with it? Are you calling anyone to assist us? Have you any suggestions to make about it. It is all very well to say, " All that is wrong and it cost me six cents," but are you calling anyone to say what is the right way to go at it consistent with good engineering practice and perhaps with the equities attaching to divided ownership in the pool.

MR. MAHAFFY: Well,Sir, insofar as the crude is concerned our arguments will be as presently advised, that the Commission should simply recommend to the Government that the Board if it has not got the power that it be given the power and if it has the power that it exercise it to see that during a restricted period of production that each purchaser of crude for the amount nominated is entitled to get that crude at the field price. Now that so far is a fairly simple proposition I think.

THE CHAIRMAN: You have heard Mr. Cottle say that at once that would work into bad engineering habits.

MR. MAHAFFY: He said, My Lord, that it would be bad engineering practice to allow one well to produce more than a similar well in the neighborhood or in the field but I have not gone that far yet. All I am saying is to let them put in their plan the way it is on the crude that if they do then let them carry their equity right down the line and see to it that we get our crude at the field price without any bonus.

MR. COMMISSIONER LIPSETT: When you say the field price, Mr. Mahaffy, who do you suggest should fix that field price.

MR. MAHAFFY: Well I am speaking on the assumption that it is fixed as now and as you gentlemen know it is fixed by the Imperial Oil Company.

MR. COMMISSIONER LIPSETT: Your view is that even if you could produce crude oil yourselves at $1.00 per barrel that if you were to get extra oil owing to the Conservation rules that you should pay or would be willing to pay $1.30.

MR. MAHAFFY: My argument would be, Sir, first of all I may be a little out of date but yesterday

and today was the first time I ever heard it said that the Conservation Board will allow storage. In fact my impression always was and I have heard it said on more than one occasion that they were absolutely against it.

THE CHAIRMAN: They will allow it if you have enough wells to produce it on your allowable.

MR. FRAWLEY: But they won't allow you to produce and store when the other fellow is pro-rated under the Boards allowable.

MR. MAHAFFY: I realize that. I think this storage situation is, as I now understand it, that that is probably going to get rid of quite a few difficulties we have been having in the past. Insofar as this other point is concerned that you mentioned, Sir, I think that perhaps my clients would feel that as long as they knew that someone had additional supplies that they might require from time to time and could be purchased at the field price they would be satisfied and I think it would be fair to all concerned.

THE CHAIRMAN: How do you suggest that could be arranged? How?

MR. MAHAFFY: Simply that the Board, the Conservation Board if it has the power now should do it and if it has not that it should be given the power to say --

THE CHAIRMAN: To say what somebody else shall sell their property for?

MR. FRAWLEY: Yes and to fix prices?

MR. MAHAFFY: Yes. In other words - if the Conservation Board say, " Here it is only equitable that you should cut down your well to one half of what

it is capable of producing efficiently, " that they should also say to us, "You are entitled to buy that oil from the other man over here at the field price provided you take delivery at his well."

MR. COMMISSIONER LIPSETT: That in this case is his own price?

MR. MAHAFFY: It is his own price. You see, Sir, we must be fair about it. It is liable to work both ways for we may have a surplus next winter that we want to turn into the pipe line and naturally we would expect the field price.

THE CHAIRMAN: From Whom?

MR. MAHAFFY: From the Pipeline Company.

MR. FRANLEY: From some purchaser?

MR. MAHAFFY: From who ever buys it from the Pipeline Company.

THE CHAIRMAN: Mr. Mahaffy, you are saying when you are short of oil the Board should compel someone to sell it to you and when you have a surplus they should compel someone to buy it from you, at the field price in both cases?

MR. MAHAFFY: No I am suggesting when we have a surplus that we shall sell it at the field price. That is the fixed medium of exchange.

THE CHAIRMAN: If you have a purchaser you can sell it?

MR. MAHAFFY: If we have a purchaser.

THE CHAIRMAN: The Board says and I am putting it to you from that point of view, the Board says, " Certainly you can get all the oil you want and

store it just as much as you like as long as you can either get it from your own well, within your allowable, or you can buy it somewhere else. But we are not entering into commerce. We are not saying what you can buy it for or what you have to sell it for." That is their position. They say, " It is no part of Conservation to go out and buy oil for other people at a price." You say, "You are preventing me getting all the oil I can from my well and therefore you should be concerned with the technique that I get sufficient." The Board answers, " Drill more wells and you will be all right there."

MR. MAHAFFY: It won't make any difference, not one bit of difference.

THE CHAIRMAN: Why?

MR. MAHAFFY: "For the simple reason they are restricting production to the market. But how do they get the market?

THE CHAIRMAN: You would store then wouldn't you? Could not you store?

MR. MAHAFFY: This is the way it works. They go to Mr. Nolan's client and say, " How much oil do you need next month?" and he says one hundred thousand barrels. They come to us and say, how much oil do you need and we say fifty thousand barrels, and so on and then they determine how many, they make some adjustment as Mr. Cottle says in their experience being necessary and they determine how much oil is to be produced. Now then we have put in a nomination for fifty thousand barrels. On the basis of that they are allowing the field to produce enough so that we can get the fifty thousand barrels but the well with which we have a direct contract only produced thirty thousand barrels

so naturally we are twenty thousand barrels short of our requirements. Now the first important thing to note is that that allowable has not been fixed on any principle of Conservation. It has been fixed on the market requirements.

MR. FRAWLEY: Having due regard to Conservation needs?

MR. MAHAFFY: No.

MR. FRAWLEY: Oh yes?

MR. MAHAFFY: It is pro-rated having due regard to Conservation needs but the amount is fixed on one principle and one principle only and that is to markets. There is no question about that.

MR. FRAWLEY: Perhaps we are both talking about the same thing. If the total of these nominations was five hundred thousand barrels for the month and the Board came to the conclusion that the field could not efficiently produce five hundred thousand barrels --

MR. MAHAFFY: They have not got to that point yet. Assuming present conditions.

MR. FRAWLEY: That is all right.

MR. MAHAFFY: They fix what the field should produce on no consideration other than markets. I think that is abundantly clear.

MR. COMMISSIONER LIPSET: Is it not only because the market is away below proper engineering practice?

MR. MAHAFFY: That is right.

MR. COMMISSIONER LIPSET They only fix according to market as I understand it because the Conservation limit is away above what any market requirements have been up to date.

MR. MAHAFFY: That is right, but they do fix it on the basis of the market and the market is what all the prospective purchasers will need. It is so that part of the basis is the fact that gas and oil products says, "Now we want fifty thousand barrels."

THE CHAIRMAN: You say they have in mind the market when they make up their allowable.

MR. MAHAFFY: That is right.

THE CHAIRMAN: And they should see to it that the oil which they have allowed to be produced on the assumption that it is required by the market reaches that market.

MR. MAHAFFY: Reaches that market. Our wells on that pro-rated amount are only giving us thirty thousand barrels and we are left twenty thousand barrels short. Now if that is in the interests of the field as a whole and of the individual operators in the field and of the public that that field should be pro-rated to market then it is only fair that the Government or the Board or somebody and personally I think the Board can do it should see to it that we get that twenty thousand barrels at the field price. If they are not prepared to do that then they should allow our wells to produce as much as we want them to produce providing we do not exceed the efficient range. I have probably said most of my argument now. That is all I can say.

THE CHAIRMAN: You say within the efficient range of the well and that is all right but it is not efficient for the pool unless you pull from all other wells at the same time and ratably you will disturb the equilibrium

of the whole pool. That is the contention against it. I do not say that is right but that is the contention.

MR. MAHAFFY: I am not prepared to say that is wrong, Sir, but I do say that if it is fair to ask us to benefit the general pool in that way then it is fair for us to ask that we get our oil at the field price.

MR. FRAWLEY: Excepting if some service is done and then you are prepared to pay for that.

MR. MAHAFFY: That is true. If it has to be transported ten or twelve miles --

THE CHAIRMAN: We will assume that you are not a producer at all, for the purposes of this argument. You have nothing to do with wells. You are a refiner.

MR. FRAWLEY: That is what he is as a matter of fact.

THE CHAIRMAN: You want oil. You want a supply for your refinery. You say the Conservation Board has predicated allowable throughout this producing field on the basis of my requirements and why cannot I get it? That is right is it not?

MR. MAHAFFY: That is right, Sir.

THE CHAIRMAN: As the Conservation Board says, "Well as far as we are concerned we have allowed plenty to be produced for you to get it but in order for you to get it, the volume is there, the oil is there, but you have to make a contract with the owner."

MR. FRAWLEY: Or a number of contracts, for whatever you like?

THE CHAIRMAN: Quite so, a number of contracts.

But perhaps he does not want to sell it? "We have told him how much he can produce but perhaps he does not want to sell it. It is there for you. This field has produced it but in order for you to get it you have to go into the field of commerce and buy it.' That is what they say. We have no views about this. I am putting it to you so that you will make such answer as you can.

MR. MAHAFFY: The answer to that I would say is that this Commission is interested to see, I submit, that there is no undue enhancement of prices which is unfair and which re-acts to the detriment of the public or to some of these smaller refineries.

THE CHAIRMAN: Quite so. But how do we go about that. Supposing we were prepared to say, "We think there is something wrong about this whole method of Conservation, " call it what you will, "What should we recommend?" confiscation of the oil from people who do not want to sell it or what?

MR. MAHAFFY: It can be done, to my mind, in a very simple way and that is that so long as pro-ration is in force as we now understand it that a refinery requiring supplies in the field is entitled to buy at field prices.

THE CHAIRMAN: From whom?

MR. MAHAFFY: Plus any proper handling charges.

THE CHAIRMAN: From whom?

MR. MAHAFFY: From anybody who has it for sale.

THE CHAIRMAN: How does that help you?

MR. MAHAFFY: If it is not for sale, Sir, then we go back to the Board and say more oil should be allowed to be produced. If we had gone to the Royalite

last spring and they had said, "We have not any oil to sell, " --

THE CHAIRMAN: It could be said that the Royalite has most of the oil and does not want to deal with you at all. "I do not want to sell my gas and chattel property that I have reduced into possession, I do not want to sell that to Mayland, " what then?

MR. MAHAFFY: Then the field allowable has got up and up until our requirements are met. If the Royalite tells the Conservation Board, "We need one million barrels of oil per month instead of one hundred thousand ," the allowable of the field has got to go up because the Conservation Board until they reach the extreme limit of the range they speak of, that efficient range, has said that they are prepared to allow the pool to produce as much as is required.

THE CHAIRMAN: That is all very simple but they come back and say at once what you are proposing is to create a great surplus of oil in that field. The result would be that some can sell and some cannot and there will not be ratable withdrawals and the equilibrium of the field would be gone. We cannot allow that. That is bad engineering.

MR. MAHAFFY: That would be something that would be entirely up to the Royalite Oil Company, if they wanted to restrict the flow of their wells. Here is how it would work, if I may put it this way. Supposing a thing arose as you have mentioned and the Royalite refused to sell their oil to other refiners and the other refiners required more oil than they could get from their contract

wells, the only place to get it is from the Royalite Oil Company but the Royalite Oil Company say we won't sell. The others then go back to the Conservation Board and ask for an increase in the field allowable sufficient for them to get their requirements and the Board would allow that if it did not exceed the efficient range. Then Royalite could do one or two things.

THE CHAIRMAN: They are way above the market now.

MR. MAHAFFY: They are way above the market. The refiners other than the Royalite are at the market. The Royalite is away above the market as your Lordship says. The Royalite can then do one of two things. They can take their oil from the ground and store it or they can leave the oil in the ground and take their chance that they are not going to get their fair share out of the pool. If they want to act in that way those are the two things they can do.

THE CHAIRMAN: Do you think that is practicable.

MR. MAHAFFY: No I do not think that is practicable at all and I do not think the Royalite Company would do that.

THE CHAIRMAN: Don't you think it is an absolute absurdity that you would have to raise the allowables so high and disregard the actual market demands and the Royalite would retain all its oil and what was left would provide enough for your purposes.

MR. MAHAFFY: I do not think that would ever happen. I do not think the Royalite would be so foolish.

THE CHAIRMAN: Do you think it would be absurd if it did happen? Do you think we should recommend it as an alternative?

MR. MAHAFFY: I do not say that, Sir.

THE CHAIRMAN: What do you say that we should recommend.

MR. MAHAFFY: I do say if it is to be acknowledged as a fair proposition that the fields allowable is to be restricted to market requirements then that field allowable should be made available to the parties who require it to supply the market at the field price plus proper handling charges.

MR. FRAWLEY: You see it was at that stage of our discussion many months ago that Mr. Nolan made his statement to which we have so often referred because of the very things Mr. Mahaffy is now mentioning, the consequences arising out of the Conservation Board pro-rating to market. It was because I put the illustration of the Standard Oil Company coming here for instance and wanting oil, will they get it or will they not, or must we go on increasing this allowable up to absurd heights beyond the market at all and to make the thing sensible the Royalite Company said we stand ready to sell our oil to everybody who wants it at the field price plus any handling charge. There has been some departure, not from the undertaking but a departure from that practice from the Royalite. Perhaps for a very good reason. I was struck this morning with Mr. Nolan's cross examination that this company took the oil from the Royalite for two or three weeks when it suited them to take it and when they saw fit to go elsewhere they went elsewhere. I do not know but perhaps Mr. Nolan will make an

explanation in due course but it does seem to me that they charged this extra because these people were making a convenience of them. I am not saying that in any sinister way at all. They had to get their oil. But that is why there was departure from what Mr. Nolan told us here. All Mr. Nolan said was, "We will supply our oil when we do not need it ourselves at the posted field price plus proper handling charges," and we put the handling charges into the hands of the Utilities Board. Now they come along and say in this particular instance and for this particular short time and whenever that situation arises that they want to use us as an accommodation we will charge them more. I suggest we reduce it to its proper proportions. We have that fundamental undertaking by the company that they will sell at the posted field price but if an extraordinary situation arises they may feel that they should add something to the field price. I am trying to get it away from the Conservation Board. I say without that undertaking of course it would be an impossible situation but with that undertaking of the man who has always lots of oil to sell that he will sell it then I say there is no practical difficulty.

MR. COMMISSIONER LIPSETT: Is there not a difficulty or possibly some confusion as to what is the meaning of handling charges. If it is the handling charges connected with the gathering line or the pipeline system I understand that is within the Public Utilities Board jurisdiction.

MR. FRAWLEY: That is what it means I think.

MR. COMMISSIONER LIPSETT: It is not this handling charge at the well before it reaches the gathering system as is suggested in this case. If the question of the handling charge is open does it not mean that a seller under the name of a handling charge could assess any charge he thinks right and make, in other words, the price he is selling at higher.

MR. FRAWLEY: This company simply says it is not a handling charge, it is a bonus, a premium. "We have simply asked more for our oil." It does not come under handling charges at all. I think what Mr. Nolan meant was the posted field price plus the handling charge and we have the Board dealing with the handling charge.

MR. COMMISSIONER LIPSETT: That is if it is in the pipeline.

MR. FRAWLEY: That runs up until it is at the well head. It is still a public utility.

MR. COMMISSIONER LIPSETT: Only to the well tanks as I understand it because if you take the case of other wells clearly the pipeline does not include the tank of any independent well.

MR. FRAWLEY: No. We get down to a matter of a few feet of pipe or a few valves. Supposing Mr. Nolan ran his pipe right to the well and took it off as it came out of the ground and that is what he practically did, he took it from the convenient place where it is put when it comes from the well. For all practical purposes he took it from the well.

MR. COMMISSIONER LIPSETT: You mean that is what Mr. Mayland did?

MR. FRAWLEY: Yes in that particular instance. I do not think the Imperial is quibbling about it. That was not a handling charge at all. It was something I think quite properly, probably, added to the price under those conditions.

MR. COMMISSIONER LIPSETT: If it is not a handling charge or something like that how does it come in under the undertaking that they can get it at the field price less the handling charge?

MR. FRAWLEY: That is not a breach of Mr. Nolan's undertaking in the least.

MR. NOLAN: When I gave the undertaking there had been no evidence of any request at all from Mr. Mayland.

MR. MAHAFFY: This came in after you gave your undertaking?

MR. NOLAN: Yes.

MR. MAHAFFY: So it was not considered at that time.

MR. NOLAN: What I was doing at the time was satisfying the Commission as to what would happen an independent refinery at this end of the pipeline. When I mentioned the three factors, the field price, transportation charges and handling charges I am bound to say what I was talking about was the handling done here at this end of the pipeline. That was what we were thinking about at the time.

MR. COMMISSIONER LIPSETT: I think that must have been so because, speaking entirely from memory, I think you said you meant by that the pipeline charges and the

handling charges as finally fixed, however they were fixed.

MR. NOLAN: Because the Commission put it to me directly, "When you say handling charge or transportation charge do you mean that handling charge or transportation charge fixed by a regulatory body or do you mean a handling charge and a transportation charge in existence and fixed by yourselves?" That was put to me and I came again and said that was the transportation charge or the handling charge fixed by a regulatory body irrespective of the amount. Is that not your memory of it?

THE CHAIRMAN: Oh yes.

MR. COMMISSIONER LIPSETT: It may be Turner Valley was not not thought of at the time that undertaking was made. It was not in anybody's mind.

MR. NOLAN: Not in mine certainly, I can assure you of that.

MR. FRAWLEY: Would it be unfair because it is these practical things that will help to clear up these difficulties to ask the Imperial what they will do to people who want to take oil not in Calgary but in Turner Valley and at different places in Turner Valley. Let us be clear about it. Because otherwise we have this ridiculous situation that Your Lordship was discussing with Mr. Mahaffy and I think we should get at what is likely to happen. Let us get within the realm of fact. The Royalite must be prepared to have customers in the Valley. What are they prepared to do with customers in the Valley? I think that would help. I might add to that I am rather

encouraged by Mr. Mahaffy's statement that that will satisfy his client. He says, "If we can get our oil at the field price a good many of these complaints which we know are difficult in the doing of these things we are not concerned with We are principally concerned with getting our oil without having to pay some penalty for it, whatever might be the cause of this situation. We want to know we can get our oil, " and that is all Mr. Mahaffy is bothering about. If the people who ordinarily have the oil to sell can tell Mr. Mahaffy now what he has to expect. As Mr. Nolan very properly says this situation was not presented to his company when he was asked to make that undertaking. Now it is presented to him and if we hear what his undertaking is about that it might solve everything.

THE CHAIRMAN: How do you feel about it Mr. Nolan.

(go to No. 13,248)

MR. NOLAN: Well it seems to me to be very difficult to give any undertaking which is going to apply, as Mr. Frawley would have it, as he has put it to me, that it would have to be an undertaking or a statement of policy that would apply to these people in the Valley having regard to the point at which they take the oil. Well that matter is up before the Utilities Board at the instance of Gas & Oil Products Limited because they make an application before the Board on the ground that doing the gathering themselves they should not pay 9½ cents, but some proportionate amount only for what we call the main line transportation .

THE CHAIRMAN: Yes.

MR. NOLAN: And that is before the Board now but each well will present its own problem in that regard and this Commission went ahead on the basis that the price should be an inclusive price for both gathering and pipe-line transportation; no effort was made to break it up and my memory is that Mr. Hull, who came here and gave evidence, was of the opinion that it should not be broken up. He thought in a pipe-line operation of this kind, isolated as it was and dependent entirely upon its use, there should be no breakdown of the gathering in the pipe-line charge itself and I do not want to be embarrassed by being asked to say something that is going to be too wide in its scope.

MR. FRAWLEY: Well, Mr. Nolan, I must not embarrass you but would you consider stating a policy to this Commission that you will sell it to such people as come to your own property?

MR. NOLAN: You mean the people who do not use my pipe-line?

MR. FRAWLEY: Yes.

MR. NOLAN: Every barrel that goes out of this storage battery, every barrel that goes from that storage battery through the line that Mr. Mayland has or anybody else just takes down from the pipe-line volume, the throughput from every one of these wells.

THE CHAIRMAN: You are referring, Mr. Frawley, I suppose to refineries in Turner Valley who would not be putting it through the pipe-line anyway?

MR. FRAWLEY: Yes, who would not use the pipe-line.

THE CHAIRMAN: You are not referring to people who bring it to Calgary by truck?

MR. NOLAN: No, but this oil that Mr. Mayland took during these weeks would have gone through the pipe-lines.

MR. FRAWLEY: And you would get a return on the handling of it?

MR. NOLAN: Quite.

MR. FRAWLEY: Quite so, but I say you have a situation in fact where there are refineries in the Turner Valley and refineries here and you are a transporter of oil and you are also a producer of oil and it is only you as qua producer that we say, "what will you sell your oil for to a Turner Valley refiner who runs his own lines to your property at his own expense".

MR. NOLAN: That question could be put to all other producers in the Turner Valley because they are in the same position that I am.

MR. FRAWLEY: Except they are almost all under contract to you and there is no use of putting the

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[illegible]: ...

B. BRANDT: ...

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MR. ...: That question could be put to

all other producers in the ... Valley because they are

in the same position that I am.

...: ... I don't think ... of all

question to them.

MR. NOLAN: Oh, No.

MR. FRAWLEY: To those contracted to you, it is not practical to put it to them. I think if we put it to the Royalite we put it to a lot of wells and a lot of companies, I mean the Sunset Oil Company could say nothing about it. They have turned their production over to you, so there is no use going to them and so on and my submission is, Mr. Chairman, it would be a useful thing just with a view of trying to clear up this difficulty that the Board is trying to lend an attentive ear to, and I think it would help clear it up, it certainly helped us before and it would help us again I am sure ----

THE CHAIRMAN: We are concerned with it, we are definitely at the moment interested in whether or not conservation as presently working, while purporting to do equity, as well as preserve equilibrium, does inequity. Now it may or may not, that is something we have to consider but it is from that standpoint, as I understand it, that Mr. Mahaffy introduces his evidence.

MR. FRAWLEY: But then Mr. Mahaffy very clearly concludes by saying, "we have a lot of complaints but these problems would be solved if we could have some assurance that we will not be paying a penalty for our oil when this Conservation Board's orders shut our own wells down", that is about what you say, is it not?

MR. MAHAFFY: That is right.

MR. FRAWLEY: Then the person he goes to is the Royalite Oil Company.

THE CHAIRMAN: He says, in effect he says as I understand him that it is absurd for the Conservation Board, acting as an intervenant, to pro-rate the market, having

[illegible]

[illegible]:

[illegible]

[illegible]

[illegible]

found out what the market by then setting the barrels of oil to be produced and shutting its eyes to the fact that it cannot reach the market.

MR. FRAWLEY: Quite so and that is why I made my remarks a moment ago. We solved that before by simply having the Royalite Oil Company tell us what they would do. Otherwise we would have had to have a mandatory marketing board and I can see a lot of problems there, Constitutional and otherwiso, and we colved that by having the Royalite Oil Company say that, "we stand ready to sell our oil at the field price plus handling charges", that is ot Calgary and I say now, "what about Turner Valley"?

MR. NOLAN: Well now, knowing nothing about it, I would say in the first place, "when do you want to buy oil from me", "what quantity do you propose to take", and "for what period of time" and no one can answer those questions at the moment and they all may be very pertinent to the answer.

MR. FRAWLEY: That is the difficulty.

MR. NOLAN: That is the answer to this.

MR. FRAWLEY: And that is probably why you charged the 6 cents but all I am suggesting is, can there not be some undertaking.

MR. NOLAN: Mr. Mayland does not want any of my oil if he has enough of his own.

MR. MAYLAND: We want our allotment.

MR. MAHAFFY: These problems which you mention, Mr. Nolan, are those not cleared up by one phase of this, that you have put in a nomination for so much oil; so have we. We cannot get enough oil from our wells, therefore you must have too much from yours, therefcre you should be willing to

sell it.

MR. NOLAN: I do not follow that at all.

THE CHAIRMAN: Not necesarily for you.

MR. MAHAFFY: Not necessarily for us.

THE CHAIRMAN: They say, "if we do not sell it to you we will sell it elsewhere and get the transportation".

MR. MAHAFFY: But Mr. Nolan's Royalite Oil Company is producing oil in Turner Valley.

THE CHAIRMAN: Yes.

MR. MAHAFFY: Mr. Nolan's Imperial Oil is refining oil in Calgary and the Imperial Oil puts in a nomination to the Conservation Board saying they will need a certain amount of oil during the month of July.

THE CHAIRMAN: Yes.

MR. MAHAFFY: And so does Mr. Mayland. Now if the Royalite supplies the amount of oil to the Imperial that they require and they have got oil left, obviously that oil is a part of the total nomination that was set aside for Mr. Mayland.

THE CHAIRMAN: That may be quite open to you to argue, surely, that the Conservation method is bad and I invite you to show wherein it is bad and how it can be improved but you are arguing another point entirely when you say the Government of the day should take control of the oil and say where it shall be sold and to whom.

MR. MAHAFFY: What I am saying, sir, is this --

THE CHAIRMAN: You do not need to argue, but let us face it for what it is, if the Conservation Scheme of pro-ration to market without seeing that the oil reaches the market for which it is pro-rated is wrong, let us try and find out some sensible way of doing it so that that cannot happen.

MR. MAHAFFY: Well, of course, as Mr. Frawley has said ----

THE CHAIRMAN: But under existing conditions, now mind you, you cannot blast the Conservation method on your argument without proposing confiscation or price fixing by Government regulation plus an enforced sale. Royalite says, "we own this oil". Now it may go back much further than you are talking about. It may go back to the question of how this pool should be run, whether it should be a unit operation and whether that unit operation should be enforced so that every refiner has all he wants at the market price and that the producers share according to the value of the oil and so on. There is lots of arguments about this, but all you are really advocating this far is that we recommend that the Government compel a competitor to sell you his products after he has reduced it to his possession.

MR. MAHAFFY: Or let us produce our own wells.

THE CHAIRMAN: Or let you produce your own. Now does that not come down to letting you produce your own, to an attack upon the present conservation method, (1), either from an engineering standpoint, in that to produce your own would or would not injure the pool as a whole, that is from the engineering standpoint or (2), that an enforcement of the present method, or associated with it, not (2), an enforcement of the present method is intended only to work out equity between divided owners in one common pool and instead of accomplishing that, it is doing inequity and your client has suffered and in the net result it should be changed. All right. If it should then what are these changes or do you stand flat on the proposition that the Government should compel the sale to you by your competitors.

MR. MAHAFFY: I say ---

THE CHAIRMAN: You say your competitor is a producer of oil, that they are conserving according to their view, and it may be all wrong, - and they may be all right too, - but your competitor is a producer of oil. He says, "it is my oil", "you do not get any of it". Let us say you do not get any of it, "I do not like Mayland, I am not going to sell him any, he cannot buy my oil, my horses, my pigs or anything else I own. He cannot buy it. I do not want to deal with him." Now what is the answer to that? Forgetting the 6 cents, the answer is that the Government can compel the sale. Well if that is your argument, all right. Then what do you support it with? All I have heard to date is that, "you pro-rate to meet the market, therefore you see that I get the oil".

MR. MAHAFFY: Sir, may I put it this way, I may not have convinced the Commission that it is fair that we should get this oil, that we should be able to get the oil that we require ----

THE CHAIRMAN: I am not at all sure, Mr. Mahaffy, I am only elucidating your argument. I am not stating my conclusions.

MR. MAHAFFY: I realize that.

THE CHAIRMAN: I am not at all sure that the present scheme as introduced to our notice is inherently wrong, I am not at all sure of that ----

MR. MAHAFFY: Well now let us go on from that, sir. I do not think that any of us are very far apart so far as that is concerned. The thing is this, the Conservation Board says that it is proper that there should not be produced more oil from the field than the market can absorb. Now that is the first thing. Now let us agree with that for the

moment and say, "that is O.K.". Then is it not also fair that some means should be devised whereby the Board will also see to it that the component parts of that market get their oil. Obviously if the components parts are not getting enough oil for the market, as happens in the Fall when their Fall demand comes along, the Board steps in and increases the allowable production so as to fill that market. Now as long as it is flowing out evenly to these various branches of the marketing system there is no difficulty. They are quite frank in saying that they have never yet reached the place where they would feel that they would have to let the field produce less than the market requirements, so it is a case of getting it out to these various divisions in the marketing system. Now then it so happens ---

THE CHAIRMAN: It is a case of getting it to the refinery first.

MR. MAHAFFY: That is what I mean when I speak of the market, that is to the refinery. They are the people who take it and convert it into saleable products.

THE CHAIRMAN: Yes.

MR. MAHAFFY: Now then the situation then is from there that we find that it is not just quite as simple as that, we find that at times certain of these refineries are not able to get the amount of oil which they require.

THE CHAIRMAN: Why?

MR. MAHAFFY: Because the wells with which they have contracted are not allowed to produce the oil and taking Your Lordship's suggestion, the Royalite absolutely refuses to sell it to us.

THE CHAIRMAN: Yes, all right.

MR. MAHAFFY: Now then, that means that we are

short of our crude requirements.

THE CHAIRMAN: Yes.

MR. MAHAFFY: Now the question is how to correct that.

THE CHAIRMAN: Yes!

MR. MAHAFFY: Your Lordship has suggested that it means possibly confiscation or enforced sales or all that sort of thing but with great respect I do not think that is necessary. In the first place the Board has restricted the production of that field to market requirements.

THE CHAIRMAN: Yes.

MR. MAHAFFY: In the interests of all producers in the field. Now if one producer wishes to act as a dog in the manger and take advantage of the protection which is thus being offered to him by the Board, he is getting more oil than he needs and he will not let anybody else have it, is it not quite proper for the Board to say, "very well, if that is the attitude you are going to take, up goes the allowable production. You worry about your surplus yourself but these other fellows have got to get enough to satisfy their requirements."

THE CHAIRMAN: Now that is all right so far as the Imperial and the other companies are concerned, but what does it do to the oil field that the Board is there to conserve.

MR. MAHAFFY: That is a situation which I think would soon take care of itself.

THE CHAIRMAN: Perhaps so.

MR. MAHAFFY: Now if you will look ---

THE CHAIRMAN: You offer something inherently wrong and then you say, "it will take care of itself".

MR. MAHAFFY: No, I will go further than that; so far as the producers in this case, I mean so far as the Royalite and the Imperial, that is so but so far as the other producers are concerned they are using all the oil which is produced.

MR. FRAWLEY: Would that do anything to the pool, just answering the query you raised? They increased the allowable, they realized it was an absurd situation and they increased the allowable, it would not be hurting the pool.

MR. MAHAFFY: No.

THE CHAIRMAN: We heard a query from Mr. Cottle and I am not saying it is so at all, I rather queried it, but we heard from Mr. Cottle so long as there was production over the market, it would reflect on the pool and affect it, and the whole pool would be hurt, according to the engineers.

MR. FRAWLEY: Certainly and it would hurt the efficiency of the pool then.

THE CHAIRMAN:- Yes, so on Mr. Cottle's theory if it were accepted Mr. Mahaffy's argument would be untenable.

MR. MAHAFFY: I think what Mr. Cottle meant, my Lord, is this, that in the interests of conservation it was only fair that each producer should withdraw from the field at the same rate, to be, to have an equitable scheme as amongst the producers.

THE CHAIRMAN: At the same rate and concurrently.

MR. MAHAFFY: Yes, but I do not think Mr. Cottle suggested that if one group of wells was allowed to produce at a certain rate and another group

of wells at a lesser rate, that it would hurt the field.

THE CHAIRMAN: I understood Mr. Cottle just to the contrary.

MR. MAHAFFY: Well I do not think any of the engineering evidence ---

THE CHAIRMAN: Mr. Cottle, you are still under oath, what do you say about that?

MR. MAHAFFY: It would not be fair to this group and it would not hurt the field.

THE CHAIRMAN: I am talking about hurting the pool as a pool.

MR. COTTLE: Speaking of the pool as a whole we naturally want to preserve, in the interests of conservation, a rateable withdrawal from the various wells in the various parts of the field and having wells spotted in the various parts of the field shut down and others producing, we do not think it is in the interests of good conservation.

MR. MAHAFFY: Even although they are all producing within the efficiency range.

THE CHAIRMAN: As individual wells.

MR. MAHAFFY: As individual wells.

MR. COTTLE: As I said many times before, the matter of efficiency cannot be applied merely to a well, it must be applied to the well in relation to the other wells and the Reservoir as a whole.

THE CHAIRMAN: If you have evidence we would like to hear it. Mr. Cottle asserts, to have a well producing, as Mr. Mayland's well as I understand it, might have produced enough for his requirements, it would be bad for the field as a whole. Well now if that is not so why do not your engineers tell us so?

MR. MAHAFFY: Well if the Board is going to, if the Commission feels that that is, that has been established and apparently it has, although as I said with great respect Mr. Cottle is not an engineer.

THE CHAIRMAN: But Mr. Cottle is acting on the advice of engineers.

MR. MAHAFFY: Then I think we should bring some evidence on that point.

THE CHAIRMAN: You see it seems to me that we have to get at the basis on which we approach this. If your point is Government intervention and Government price fixing --

MR. MAHAFFY: I am not suggesting that.

THE CHAIRMAN: There is nothing improper about that, if it is sound.

MR. MAHAFFY: I quite agree but I do not think it is necessary, even to go that far.

THE CHAIRMAN: I do not know what your argument is then because surely if the Imperial says, "we do not care to sell Mayland" you have to have the Government say, "you must", before you get your goods.

MR. MAHAFFY: If they want to maintain what Mr. Cottle has now said with respect to the field, yes, they do, they have to say, "we must get that particular oil".

THE CHAIRMAN: Mr. Cottle says "we are the Conservation Board and we will not create this great surplus, which is your alternative scheme, because in the end as a practical thing that will do harm to our pool as a whole." Now if he is right, and I am not saying he is, but if he is right your only alternative is Government intervention to say, "we have set up a Conservation Board and we are going to

see that it functions but we are going to see that it functions without harm and if so we will see that anybody who produces down there and is allowed a certain production on the basis of a certain market, puts his oil on the market so that those who have made the demand which was the premise for the allowables are getting that which they demand, that is Government intervention and nothing else.

MR. MAHAFFY: Yes, it is, sir.

THE CHAIRMAN: There is no use in calling it anything else. If it is sound it is sound and if not all right.

MR. MAHAFFY: That really is the suggestion I am making although the enforcement I thought, - and I may be wrong, - could be handled by the Board in the manner I suggest.

MR. FRAWLEY: Increasing the allowables.

THE CHAIRMAN: But the same thing is achieved by legislation or whatever will be necessary, saying that so long as this situation exists, that a refiner is entitled to purchase his shortage from those who may have a surplus at the field price.

MR. NOLAN: May I ask about the surplus, Mr. Chairman. My friend, Mr. Mahaffy, has said and perhaps Mr. Cottle will be good enough to answer this, Mr. Mahaffy has said that when his wells do not produce his share of the allowable then it follows that the other people are getting more than their share and his share too. I cannot follow that, you see, Mr. Chairman ---

MR. MAHAFFY: Let me explain.

MR. NOLAN: Please explain because as I understand, Mr. Mahaffy, if his wells do not come up to the allowable somebody else is getting it.

THE CHAIRMAN: If his wells come up to more than

the allowable, supposing Mr. Cottle wants to fix his allowable tomorrow, as I understand it he goes to Mr. Mayland and he says, "What are you going to require"?

MR. NOLAN: Yes.

THE CHAIRMAN: He says, "50 barrels". He goes to the Imperial and they say, "100 barrels". He goes to Becker and the B. A. and so on and amongst them all they want 200 more or 250 more, that is 400 barrels. The market ---

MR. NOLAN: Correct.

THE CHAIRMAN: Then Mr. Cottle, applying his formula here, says what each well in that field can produce to produce roughly 400 or 450 barrels perhaps, allowing some leeway, 450 barrels of oil.

MR. NOLAN: Yes.

THE CHAIRMAN: Now Mr. Mahaffy says it is wrong, that the Conservation Board should not predicate its ruling upon my requirement of 50 barrels unless they are going to see that I get it. Forgetting that he is a producer and has a well. I think that only confuses it.

MR. NOLAN: He is not a producer and he has no well.

MR. FRAWLEY: No, because this is the Gas and Oil Products.

MR. NOLAN: And he has a refinery.

THE CHAIRMAN: Forgetting that. He is a refiner and he says to the Board, the Conservation Board, "I want 50 barrels" and that is taken into account and added in, and Mr. Mahaffy says it is iniquitous then to have allowed the production of 50 barrels in the field, under the control of the Board for Conservation purposes, if the person who creates that, who helps to create that allowable, does not get his

50 barrels and I say, well there does seem something wrong about that. Now what will we do about it, if anything, and if there be nothing wrong about it tell us why and so on.

MR. NOLAN: Well as I understand it Dr. Frey is an authority on matters pertaining to conservation and perhaps it would be a good suggestion to put this problem to him when he comes.

MR. FRAWLEY: We will.

THE CHAIRMAN: Doubtless all these problems will be put to him, doubtless they will, but it must not be thought, we hear much of Dr. Frey and I for one have the utmost confidence in him and respect for him but it must not be thought that as a matter of course what we hear from Dr. Frey that we will listen to him and then sign our names to that part of the evidence which is his as being our report. We welcome here what Mr. Mahaffy or anybody else puts forth or any expert that they choose to call. You see there are other considerations too, that Mr. Mahaffy may not have touched upon. Perhaps if this is iniquity, there should be a clause in the Act that no well should be tied up at all by a contract. You see we have no views about it but it does seem something strange, there is something strange about the Board solemnly arranging for the allowables on the basis of the market and the refiners cannot get it; equally it seems strange that people should be told when they have paid good money perhaps to get the output of a well, that they shall have to sell it to some one they do not want to sell it to. All these are difficulties which have to be thought about and thought about carefully. What we will do I have no idea.

MR. FRAWLEY: Of course it has worked out pretty well because, while I am not minimizing the effect of five weeks of being without oil, that seems to be the only difficulty.

THE CHAIRMAN: Mr. Frawley, if it is wrong it is wrong in principle.

MR. FRAWLEY: Yes, if it is only one day.

THE CHAIRMAN: If it is wrong for one day or one half hour it may be wrong for the whole year. If it is wrong with respect to a barrel it can be wrong with respect to the whole of the requirements of this particular refinery or any other.

MR. FRAWLEY: Of course I think the answer is what has been made already.

THE CHAIRMAN: I do not think the 6 cents is important. If they can make it 6 cents they can make it 36.

MR. FRAWLEY: Yes.

THE CHAIRMAN: I am not forgetting this other view, that these people made their contracts down there and the contracts are made. The whole thing is very troublesome.

MR. FRAWLEY: Of course the Board is not ---

THE CHAIRMAN: And it does strike one if the Board assumes to intervene you see, that you immediately have interference, statutory interference with proprietory rights. It is just like wild game, when it is reduced to possession the oil is yours. Now we are interfering with that. We say they cannot reduce it to possession and they are interfering with proprietory rights when the Conservation Board starts out to do what it is doing. Now having gone that far in the interference of proprietory rights are they not bound to go the next step up and to do what further interference they must do to make the first part of their interference a workable, sensible and equitable thing.

MR. FRAWLEY: At the moment they have been regarding this as a Conservation Board and nothing else but if they have to be a Conservation Board and a Commerce Board --

[illegible]: [illegible] It's [illegible], it is long
it is worth it, [illegible].

[illegible]. [illegible]: Yes, if it is only one day.

[illegible] QUALIFICATION: If it is worth [illegible] day
[illegible] half hour it may be worth for the whole week. If it i
[illegible] with respect to a period it can be worth [illegible]
t [illegible] the requirements of this [illegible] a [illegible]
[illegible] any other.

[illegible]. [illegible]: Of course I think the [illegible]
[illegible] it has been [illegible] already.

[illegible] QUALIFICATION: I do not think the [illegible]
[illegible] extent. If they can make it I [illegible] they can [illegible] it

[illegible]. [illegible]: Yes.

QUALIFICATION: I am not forgetting this [illegible]
[illegible], that there [illegible] make their [illegible] down [illegible]
[illegible] the contracts are made. The whole thing is very [illegible]

[illegible]. [illegible]: Of course the board is not [illegible]

THE QUALIFICATION: And it is [illegible] it [illegible]
[illegible] would assume to [illegible] you see, that [illegible] immediately [illegible]
[illegible] department, statutory [illegible] not [illegible] [illegible]
[illegible] just like the [illegible], then it is reduced to [illegible]
[illegible] it is [illegible]. [illegible] are [illegible] with that.
[illegible] their [illegible] to [illegible] and they [illegible]
with respect [illegible] the Government [illegible] [illegible]
not to [illegible] it is doing. [illegible] saying that [illegible]
[illegible] [illegible] statutory rights are they not [illegible]
[illegible] [illegible] [illegible] [illegible] they
must do to [illegible] [illegible] [illegible] and of the [illegible]
[illegible], [illegible] [illegible] [illegible].

[illegible]. [illegible]: [illegible] about they [illegible]
[illegible] [illegible] "[illegible] [illegible] [illegible]
[illegible] they [illegible] [illegible] [illegible] [illegible]

THE CHAIRMAN: With respect, I do not think they have. If they were purely a Conservation Board they would not be concerned about markets.

MR. FRAWLEY: Well then that goes right back to whether or not they should shut their eyes to market.

THE CHAIRMAN: Quite so.

MAJOR LIPSETT: If there was conservation exclusively, Mr. Frawley, would that not mean, assuming this to be a common pool, that every well that was drilled would have to be drilled so as to, all over the field, so as to take the oil from the pool or the common reservoir, equally all over the area.

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MR. FRAWLEY: Mr. Cottle says that is just what the spacing rule which the Board administers is for. There is a spacing rule.

MR. COMMISSIONER LIPSETT: As things are at present, if one company, perhaps, owns one-quarter of the field, they could go on drilling up that whole quarter.

THE CHAIRMAN: And spacing as between north and south would not mean a thing.

MR. COMMISSIONER LIPSETT: Supposing that was so, one-quarter of the field might be drilled, a well for every 40 acres, and the rest of the pool might be drilled, only one well for 200 acres. That is possible.

MR. FRAWLEY: Of course, it is a minimum spacing rule. They cannot drill closer than 40 acres. They can drill every 80 or every 160.

MR. COMMISSIONER LIPSETT: As at present constituted, if one large company owned one-quarter of that area, one particular place, they could drill a well every 40 acres, and with reference to the other three-quarters of the common pool there might be only one well drilled in every 200 acres.

MR. FRAWLEY: I do not follow.

THE CHAIRMAN: They drill in whatever way the engineer says is wise to drill to get out the greatest volume of oil, that is to say to conserve the propulsive energy to get out the last drop of oil that can be got out of that pool. That is conservation. That is avoidance of waste. You do not suggest this Board is doing that. It is letting people drill wherever they want to drill within the scope of 40 acres, or whatever it is.

MR. FRAWLEY: If a man has a piece of land and he wants to drill - if I have 40 acres the Board allows me to drill, that is right. I do not quite follow when you say there is a lack of regard in that.

THE CHAIRMAN: There is a total pool. Does Mr. Cottle suggest, or anyone advising him suggest that if you drill 600 acres in one corner of that pool on your 40 acre plots, that it would be quite all right for the equilibrium of the northern field if that were in the south. Would you bunch it?

MR. FRAWLEY: I do not understand.

MR. COMMISSIONER LIPSETT: If you were having true conservation would not that mean drilling at the same time one well on every 40 acres over the whole area or one well in every 50 acres or one well in every 100 acres, but not let two wells be drilled inside the 100 acres and none in the adjoining 100. If you were having true engineering conservation and that only.

THE CHAIRMAN: The truth of the matter is you can only get true conservation in an undivided pool, one owner who drills intelligently from the standpoint of getting the most oil. You have not got that. You have not got conservation as such, pure and simple. You have something that has been accepted as a very vital break in the rule of capital and it has proven to be valuable here. But that does not say it is perfect. If we can get any suggestions that will help to make it work out more accurately, all right.

MR. COTTLE: The Board feels that the field requires eventually one well on every 40 acres in order to get the maximum drainage from the reservoir. It may

be that eventually it will require one well to less than 40 acres, but we won't know that for some time to come. At the moment we think it requires one well to every 40 acres to get the maximum drainage.

MR. COMMISSIONER LIPSETT: I am sure you are doing the best you can. I am not criticising. But at present you are not really doing conservation by saying that if they drill 10 wells in 400 acres in one corner and 1 well in 400 acres at another corner and that these 10 wells on the one 400 acres can produce ten times as much oil as the 1 well in the other 400 acres.

MR. COTTLE: They may or may not. But quite apart from that it may be that we would like to see 1 well on 40 acres in this second parcel you have in mind. Certainly we are not going to drill wells. If we thought a spacing of 80 acres or 100 acres was more effective than the 40 acres presumbaly we would take some steps to see that the wells were limited to 80 or 100 acres, as the case may be. We feel at the present time that 40 acre spacing is as close as they should be and also if they are any wider than that they might have to become closer in order to get the most efficient production from the field.

MR. COMMISSIONER LIPSETT: But the method at present in force, as I understand it, with 1 well to 40 acres, it might mean with 10 wells in one 400 acres at one corner of the field and those 10 wells might have 100 barrels a day and 1 well on 400 acres a mile away would only have 100 barrels a day.

MR. COTTLE: That is right, providing its characteristics are the same as the other 10 wells. Once

those 10 wells go into production their characteristics change, of course. They change day by day.

MR. COMMISSIONER LIPSETT: What I am trying to think out loud about is this, that whatever your conservation at the present time is, one man or one owner by drilling 10 wells in one 400 acres could really defeat your conservation because he can get ten times his 100 barrels where the man with 1 well on the other 400 acres can only get 100 barrels.

MR. COTTLE: You are going on the assumption that 1 well on 400 acres is draining the 400 acres. We do not think it is. To effectively produce oil on 400 acres we think it will require 10 wells to do the job.

THE CHAIRMAN: Are you working your Conservation Board on the theory that the total withdrawal is from 40 acres?

MR. COTTLE: No, we are working on the theory that 1 well will not most efficiently drain or produce all the oil that underlies more than 40 acres. If 1 well would drain 80 acres or 160 acres, our spacing programme should be 1 well to 160 acres, whatever the case may be.

MR. COMMISSIONER LIPSETT: Could I just try to think aloud, without criticising you or anything. On that assumption that 1 well would drain 400 acres, or effectively, what damage is done to anybody if a well like Mr. Mayland's, when he needs the production and it is still within good engineering practice, if he asks that he be allowed to take the oil from his well up to his market requirements, within good engineering practice, in what way is he hurting anyone else?

MR. COTTLE: I would say he is hurting them by causing a low pressure area on his property and causing

a migration of pressure or oil from the adjoining property.

MR. COMMISSIONER LIPSETT: If it is not a common pool and there is only an area of 40 or 50 or 100 acres being affected by a particular well, then I do not quite follow how, taking his full requirements from Mr. Mayland's well at one end of the field it is going to affect a well a mile or a mile and a half away.

MR. COTTLE: We think it will. That is the only answer we can give to that. Obviously, where there is production from the south end of the field and there is no production in acreage contiguous to it, naturally there must be some effect on the undrilled acreage. The ideal and most efficient production would be to have the whole acreage drilled on a proper spacing pattern before you start to produce and then you at all times preserve the proper withdrawal from the reservoir as a whole. Obviously, when you have acreage not drilled at all something may be happening to that acreage. For that reason we only consider the acreage drilled as an oil field, and the only way we can protect the acreage not drilled is to allow no production until the whole acreage is drilled. That is not practicable. That may be the sensible thing to do from the point of view of perfect operation.

MR. COMMISSIONER LIPSETT: I am sure it is much easier to ask questions than to answer them, but I was just trying to clarify my own thoughts about it.

THE CHAIRMAN: Well, Mr. Mahaffy, you have advanced one argument that the allowable should be raised until it reaches the point where your client's requirements are satisfied. Any other submission to make concerning this?

MR. MAHAFFY: Or that steps should be taken to provide that we are entitled to purchase the deficiency at the field price.

THE CHAIRMAN: Well, steps should be taken. What ones? Let us be concrete in what you say we should recommend.

MR. MAHAFFY: Well, naturally, Sir, I am not prepared to say exactly what sections should go into or out of the Conservation Act.

THE CHAIRMAN: I am not asking you to refer to sections, but what recommendations should be made?

MR. MAHAFFY: That as long as and at any time that the Conservation Board restricts the flow of the wells in Turner Valley to a point less than they can produce in the efficient range and if as a result of the pro-rating system any refiner is unable to get his requirements of oil that one or two things should happen: the allowable should be increased to the point where he can get his oil, or secondly, that he should be permitted , and the Government through the Board should provide, that the producers enjoying a surplus and holding the surplus should sell to that man at his request such oil as he requires at the field price.

MR. COMMISSIONER LIPSETT: Fixed by themselves?

MR. MAHAFFY: I am content now, Sir, even to go that far. Even though I do realize that the field price may be a price fixed by the man who is actually selling the oil.

MR. COMMISSIONER LIPSETT: You started to develop one reason for that but I do not know whether you have finished with it or not. That is that that would cut both ways. That there

might come a time when your client had more oil than he required for his refinery and had control over the oil and that he might want to sell some surplus and you said he should be able to sell it at the field price. I do not know whether you wanted to say that somebody else should be forced to buy it at that price. Perhaps you would develop that.

MR. MAHAFFY: No, I did not intend that.

MR. COMMISSIONER LIPSETT: Secondly, do you think it should be put out of Mr. Mayland's power, if he had that surplus oil, to sell it at less than the field price if he wanted to get rid of it and found a market down in Saskatchewan or, perhaps, in Montana. Should he be prevented from selling his surplus?

MR. MAHAFFY: I do not think there is anything now to prevent him from doing that and I do not think there should be anything to prevent it.

MR. COMMISSIONER LIPSETT: You rather said that he should be able to get the field price for it from somebody else. It would cut both ways, if he agrees to buy at the field price when he is short then that he ought to be able to sell at the field price if he has a surplus.

MR. MAHAFFY: I will put it this way, that if we should happen to be the firm which had the surplus that it is only fair that if the Royalite were short they should be able to come to us and buy it at the field price or such lesser price as we are willing to sell at. It is the maximum I am thinking of, not the minimum. The time may come, but I do not think it will, when the Royalite are in the position we are now in and we would be in the position they are now in. They might on some occasion be

short of oil for the very reason we were short of it last Spring. What I meant to convey was we should then also be in the same position to sell to them at the field price. I do not think that there should be anything that would in any way restrict as to minimums. I have not anything in mind in that regard in this argument.

MR. COMMISSIONER LIPSETT: Was there anything in January last - one of your witnesses said that he required this extra oil in May and June, but that if he had been allowed to accumulate oil from the previous January from the wells he had contracted that he would have had enough. Was there anything to prevent that happening in January last?

MR. MAHAFFY: The allowable, Sir, was not sufficiently large that a surplus could be accumulated. In other words, on the allowables fixed by the Board the plant was using all the oil it was able to secure through that period.

MR. COMMISSIONER LIPSETT: Was that because Mr. Mayland did not ask for enough for his requirements. Supposing he was actually refining, say 500 barrels a day, for a figure, did he ask only for 500, or did he ask for 750?

MR. MAHAFFY: The whole difficulty at that time, as I said this morning, Sir, was that as far as we are concerned this is the first occasion on which we have heard the Board say that they will permit of storage. I think Mr. Cottle will agree with me that last year Mr. Knode very definitely took the stand no surface storage should be allowed. If we had understood in January or February what we now understand - and I hope we have got it right - that in putting in our nominations to the Board we could put in a certain amount for storage purposes in addition to our

actual requirements then we could accumulate considerable in storage to carry us over the period.

THE CHAIRMAN: That is not my understanding of Mr. Cottle's statement. He is not pro-rating to market plus pro-rating to storage. He is pro-rating to market. Now, you can sell on the market or you can store.

MR. MAHAFFY: That is what I understood before, but I did not understand Mr. Cottle to say that to-day.

MR. COTTLE: I said we are pro-rating to the requirements. If you want to put some oil into storage in the slack season so as to avoid taking too much oil in a peak season, not only will we not prevent you from putting the oil into storage but we will encourage you putting the oil into storage. And that has been the position ever since I have been a member of the Board.

THE CHAIRMAN: Providing they get it out of their allowable.

MR. COTTLE: Providing the well does not produce more than the proper proportion of the total.

THE CHAIRMAN: Let us be clear. If he includes in his what he terms "nomination" - why, I know not - but if he includes in his nomination not only his requirement as a refiner at the moment to supply the market with gasoline, but also an amount to put in storage tanks, are you content?

MR. COTTLE: We are perfectly content. In fact, we do not care with these so-called nominations whether the purpose of the nomination is for storage or for market requirements. We are not at all interested. All we are interested in is how much oil is going to be taken by Gas & Oil Products for whatever purpose. He can

take as much oil as he desires.

THE CHAIRMAN: Have you any check on that. Supposing his usual quantity is 1,000 barrels, and he puts in a so-called nomination for 100,000 barrels to-morrow, you just take it, do you?

MR. COTTLE: If we are satisfied he is going to take it we will take it. The only check we would make would be whether or not he is, perhaps, exaggerating and may not take it.

MR. MAHAFFY: You cut our nominations very considerably the first part of this year.

MR. COTTLE: There was one nomination, if you wish to call it that. I believe the Gas & Oil Products wrote a letter to the office saying "We want so many barrels of oil," and I had to find out how many barrels of oil per day that would mean, how you were going to take it and at what rate you were going to take it. I never did find out when that was going to be taken or how much per day or at what rate.

MR. MAHAFFY: Is it not true in several of these months you cut our - I call it nomination because I understand that is what you call it, but whatever it is anyway - that you cut our nomination as filed two or three months in the Winter. That is my information.

MR. COTTLE: No, I do not think that is correct because in arriving at the total demand really what we do is we find out what the large people are going to take and we put in a round figure for everybody else, which would include your requirements and Mr. Plotkins' requirements, and the refineries in Saskatchewan. As I say, we do not attempt to arrive at exact figures but we allow sufficient

leeway one way or another.

MR. MAYLAND: We asked for three times what we required during the present month in order to get some storage and we were not able to get it.

THE CHAIRMAN: As I understand the record now, Mr. Cottle speaking for the Board says that he does not care whether your nomination , that which he takes into account in making his allowables, is predicated on what you will use in your refinery to make gasoline at the moment or put into storage tanks. He will predicate his allowables on the one as much as the other.

MR. MAHAFFY: I am glad to have that clarified, Sir.

THE CHAIRMAN: I had not that impression at all so I am glad to have it clear too.

MR. COTTLE: That is the policy and always has been the policy.

MR. MAHAFFY: On the other hand, there is no object in us putting in a nomination for 400,000 barrels if Mr. Cattle cuts it to 20,000, as was done the past year. Those, of course, are not the exact figures.

MR. COTTLE: I do not see that it makes any difference.

MR. MAHAFFFY: It means we cannot put any in storage.

MR. COTTLE: No. The only way you can get oil into storage is to get possession of the oil to put it there. On your nomination it makes no difference to us what amount of oil you were going to get. All we are interested in is to see that sufficient oil is produced for all purposes.

MR. COMMISSIONER LIPSETT: If he puts in for 40,000 and

there is only 20,000 taken into the calculations, would not that mean that his well would be cut down by the proportion of that remaining 20,000?

MR. COTTLE: It would be very, very slight. One well's proportion of the total would have no bearing on the adequacy of the total supply.

MR. MAHAFFY: No, but if everybody else puts their nominations in on an accurate basis and we do too and we put in for 40,000 barrels and you put it in for 20,000 barrels, somebody is going to be 20,000 barrels short. They cannot help but be. My client put in an expensive tankage system down there the last year, 80,000 barrels, and heretofore they had not been able to take advantage of those storage facilities.

MR. COTTLE: Why?

MR. MAHAFFY: Because we cannot get the oil.

MR. COTTLE: Because no one will sell you the oil? The Board has always been willing to have as much oil produced as will be taken. We cannot see to it that you get delivery of the oil nor can we see to it that you take the oil that you nominate.

THE CHAIRMAN: That is just the whole point, whether you should not be compelled to see to it. You are interfering with the man's use of his own well. At common law he could take all that oil and fill his tanks and he would not have to ask anybody. Now, he has to ask you. All right. If you are interfering with his rights at common law it must be seen to that you do not interfere unjustly. However, you say "You can go and get it where you like." He says "All right, I would like to get it out of my own wells, and what have you got to say about it?" You say

"We have a lot to say about it, the Act says we have to conserve."

MR. MAYLAND: We did try to do that.

THE CHAIRMAN: It is the present legislation. They were probably doing the right thing. The thing is should this be changed. That is what I am trying to get guidance about. Should that be changed. Mr. Cottle has no interest in harming anybody. He has the Act to work under. If that Act is wrong we should recommend its change. I am trying to probe around in the dark to see if it is wrong and secondly, to see what change would work out equitably for everybody.

MR. MAHAFFY: The Act is all right, because it does not say one word about pro-rating to market, and that is where the whole trouble comes in.

THE CHAIRMAN: All right, then perhaps the Board is exceeding its power and if you thought that no doubt you would have acted long since to stop that.

MR. MAHAFFY: They have been treating us fairly reasonably but if they do what they threaten to do on September 25th that may change the situation.

THE CHAIRMAN: Regardless of any threat or anything, something should be fair and good for everyone down there. Quite aside from private fights, something should be right. Now, it is not enough to say "Well, we can go and buy some more land," and so on, as I see it, because your client may have plenty of land if he is left alone to deal with his oil as he likes. That is he could at common law. Now, you interfere with him. All right, if you interfere with him in such fashion that he does not suffer injustice. Does he suffer injustice? I do not know.

It is said "Well, we interfere with everybody in the same way and it just happens to work out unfairly for the small fellow"

MR. MAHAFFY: The more wells the big fellow drills the worse it gets.

THE CHAIRMAN: Of course so. It is absolutely true of conservation everywhere. Personally, I think it has a very distinct tendency towards monopoly, as practised in America. There are many who say its evils more than overbalance its benefits. There are others who say its benefits are unlimited. If those were the only two statements you have to make, all right, we will close the books.

MR, MAHAFFY: Those are the only two. We started out to make this temporary argument and I said I would submit my argument with the general argument later, and I would still like to do that.

THE CHAIRMAN: It cannot be said we have not encouraged you in the very short argument you started to make.

MR. MAHAFFY: That is right, Sir. It has lasted a long time for a brief argument.

(At this stage the Hearing was adjourned until 10:30 A. M. 20th September, 1939.)

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J. J. FRAWLEY

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta SEPTEMBER 20th, 1939

VOLUME 118

BOX. 83

I N D E X

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WITNESS:

Thomas Logie, recalled.....13,279

Leon L. Plotkins, recalled.....13,287

Henry J. Appleton, recalled.....13,293

E X H I B I T S

EXHIBIT 596
Statement produced by the witness Logie, showing an analysis of crude purchases - 1938 - Lion Refining Company.....13,279

EXHIBIT 597
Statement produced by the witness Logie showing an analysis of casing-head purchases - 1938 - Lion Refining Company.....13,280

EXHIBIT 598
Statement produced by the witness Logie, showing analysis of manufacturing wages for the year 1938, Lion Refining Company.....13,280

EXHIBIT 599
Statement produced by the witness Logie, being a Profit and Loss statement by products - 1938 -consumers' sales only - Lion Oils Limited.....13,280

EXHIBIT 600
A memorandum filed by the witness Appleton, dealing with the Statute, The Fuel Oil Tax Act.....13,294

EXHIBIT 601
Document filed by the witness Appleton, being the Regulations dated 27th April, 1936, and Amendments dated 9th May, 1936, 1st March, 1939 and 1st March, 1939, re The Fuel Oil Tax Act.....13,295

EXHIBIT 602
Statement produced by the witness Appleton, showing Imports of Petroleum Products from Montana, - both refined products and crude for the year 1939 - January to July, 1939, inclusive 13,324

10:30 A. M. Session.
20th September, 1939.

MR. FRAWLEY: I am calling Mr. Logie.

THOMAS LOGIE, having been recalled, examined by Mr. Frawley, said:

Q MR. Logie, you are still under oath?

A Yes.

Q Some time during these weeks you have supplied Mr. Cottle at his request with certain financial information with reference to the Lion Oil Limited and Lion Refining Company?

A Yes.

Q I want to show you and I want you to formally put in evidence the documents you have supplied to Mr. Cottle. Now you pick them out and give them to me in the proper order, in the way they should go in, in order. Now the first document you produce, Mr. Logie, and which you have supplied already to Mr. Cottle is a statement showing analysis of crude purchases, 1938, Lion Refining Company?

A Yes.

MR. FRAWLEY: I offer that as an Exhibit.

(STATEMENT SHOWING AN ANALYSIS OF CRUDE PURCHASES 1938 LION REFINING COMPANY HERE MARKED AS EXHIBIT "596".)

THE CHAIRMAN: That is described as what?

MR. FRAWLEY: It is described as Lion Refining Company, analysis of crude purchases, 1938.

Q Then you produce a statement, Lion Refining Company, analysis of Casing Head Purchases, 1938?

A Yes.

MR. FRAWLEY: I offer that as the next Exhibit.

T. Logie

(LION REFINING COMPANY ANALYSIS OF CASING HEAD PURCHASES, 1938, PRODUCED AND MARKED AS EXHIBIT "597".)

Q MR. FRAWLEY: Then the next thing you supplied to Mr. Cottle at his request and which you are now producing to the Commission is an analysis of manufacturing wages for the year, 1938, Lion Refining Company?

A Yes.

(STATEMENT SHOWING ANALYSIS OF MANUFACTURING WAGES FOR THE YEAR 1938, LION REFINING COMPANY PRODUCED AND MARKED AS EXHIBIT "598".)

Q Then you are, how would you describe the remaining documents you produce?

A Profit and Loss Statements by products for Lion Oils Limited, 1938, Consumers' Sales only.

Q Does that describe the whole of it?

A And details of that statement.

MR. FRAWLEY: So the witness is now producing a statement called, Profit and Loss Statement by Products, 1938, Consumers' Sales only, Lion Oils Limited.

(STATEMENT PRODUCED AND HERE MARKED EXHIBIT "599".)

MR. FRAWLEY: That is all, thanks.

MR. PLOTKINS: May I ask him a question?

Q MR. PLOTKINS: Mr. Logie, would you be good enough to explain to the Commission so that they can better understand these statements, what you did and why, in each statement, what you were trying to bring out, what information you were trying to bring out, take each statement in turn.

MAJOR LIPSETT: You have not copies of these?

MR. FRAWLEY: Mr. Cottle will have to explain all this.

MR. PLOTKINS: I am not going to go into details but just give a general idea why these statements were made and what they-purport to show.

MR. FRAWLEY: All right.

MR. PLOTKINS: Because Mr. Cottle, after all, can only give his views on it and we will show what we have done and why.

THE CHAIRMAN: All right, go ahead.

WITNESS: Well the statement Exhibit "599" purports to show the net margin ---

MR. FRAWLEY: What I am doing, Mr. Plotkins, is putting in evidence certain material which Mr. Cottle has had for weeks and I have no intention of discussing it at the moment. The Commission will have it eventually through Mr. Cottle and Dr. Frey. I have to put in all the evidence which they had but I do not want to stop you from offering any explanation you like to offer but it seems to me it will be a little out of balance and perhaps not very well understood.

MR. PLOTKINS: Well I think we should make a brief explanation, even for the benefit of Mr. Cottle and Dr. Frey.

MR. FRAWLEY: Well yes, if you think so but surely this has been the subject of discussion between you and Mr. Cottle and Mr. Cottle knows your point of view and you know his.

THE CHAIRMAN: We will not stop you, Mr. Plotkins.

MR. PLOTKINS: I think there is some information which should be brought out, that arises from these statements.

THE CHAIRMAN: Yes, take each statement and say what it is as quickly as you can.

WITNESS: Exhibit "596", Lion Refining Company Analysis of Crude Purchases, 1938. This was a statement which Mr. Cottle requested merely to verify the total as shown by the Refining Statement which we submitted.

Q THE CHAIRMAN: Yes.

A The same can be said about Exhibit "597", the Analysis of Casing Head Purchases, 1938, and also Exhibit "598". Those were statements that Mr. Cottle requested merely to substantiate the statements which I have already submitted.

Now Exhibit "599", statement of Profit and Loss by Products for Lion Oils Limited is a statement of the consumer gallonage of the company purporting to bring out the net margin per gallon.

Q MR. PLOTKINS: When you say consumer gallonage, why do you say consumer gallonage?

A Because our sales to jobbers have been eliminated entirely from this statement.

Q Why have they been eliminated?

A Well the statement that we wanted was to show what the net back to the company was on its regular customer business and if we took our jobber sales into consideration it would distort the picture quite a bit.

Q It would not reflect the true position?

A It would not reflect the true position.

Q Now what does the statement show in brief, without going into a lot of details?

A It shows that the total net back to the company per gallon amounts to .713 cents per gallon.

Q On an average?

A On an average of over-all profits, that is the refined products.

Q Now how is that figure arrived at, is it after taking into consideration and properly allocating administration and selling expenses?

A Well it has been taken by allocating the expenses both administration and service stations and handling expenses, on a basis of each product's percentage to the total sales value. That is the method we have used in distributing the expenses to the various products.

Q And you say that that statement shows an average net profit to the Lion Oils of .713?

A That is right.

Q That is a little less than three quarters of a cent a gallon?

A Yes.

Q Marketing profit for all the products, all the sales of the company, during the year 1938?

A That is all the gallonage sales.

Q All the consumer gallonage sales?

A Yes.

Q What else does it purport to give?

A I do not quite understand that.

Q Can you give, does this statement furnish any other information as a result of the survey?

A It shows the net margin in percentage of sales; it shows the administration expenses as a percentage of sales; station expenses as a percentage of sales.

Q And that is about all, is it not?

A Yes.

MR. FRAWLEY: Thank you.

Q MAJOR LIPSETT: Is that profit of .713, is that a refining profit?

A No, that is a marketing profit. That is just taking the Lion Oils Limited operations. It does not take the Lion Refining Operations into the picture at all. That is the Lion Refining Company sells to the marketing company.

Q It takes the price fixed by the refining company as a basis?

A Yes.

Q And from that it takes its gross marketing return?

A That is it.

Q And it arrives at this net profit of .713 on marketing alone?

A Yes.

Q MR. PLOTKINS: Mr. Logie, while the Commissioner has asked that, would you mind telling us, is it not correct that we attempted to disregard the companies and take the refining company's costs and take the total return from the marketing company and attempted to get a statement that would reflect the situation as if there were no company, or one company, that is all the operations were carried on by one company and what was the result?

A Well it was very difficult to arrive at what we thought was a fair picture because the jobber's sales would bring down the net back on certain products which would distort the distribution of costs over the whole picture if we used the sales realization net back.

Q In other words to get a correct interpretation of the fact as it applies to both companies and by the sales realization method, it was impossible to give a statement combining all the operations which would reflect somewheres near the truth, in other words it didn't seem to be ---

A It didn't seem to be possible.

Q The facts were distorted and did not have any relation to the truth as we see it?

A Yes.

Q Why was that, apart from the jobber's sales?

A Well I do not know. The allocation of all the expenses was more or less the same. There was the same argument as the allocation of jobber's sales, that we could not allocate the expenses properly under the sales realization method because certain products were not giving us a true picture of the return.

Q Is it not better to explain it this way, to say that because the company refines and sells to the jobbers on a jobber basis, refines and sells on a wholesale basis, that is by the drum; refines and sells and markets on a retail basis, each one of them involving a different degree of service and cost , that it was impossible to relate that cost on the ultimate realization of all the profits, is that not what actually happened?

A Yes, we could not allocate properly the expenses attributable to jobber's sales, wholesale sales and retail sales.

Q All right, and not only that but you could not use the amount realized on an average for any given product?

A No.

Q Because of the wide disparity between the price received for the same products when sold to jobbers and the price received when sold by retail; in the case of Lion White it came down from a 9 cent to 20 cents retail?

A Yes.

Q So it was impossible by the sales realization method and that is the only one we know how to do, to allocate back the cost on the basis of ultimate realization?

A We could have done it had we jobbed all our sales.

Q That is what we are doing now, when we split up into two companies, we actually reflect the correct ---

A Yes.

Q Actually what phappens?

A Yes.

Q The refining company manufactures and sells to Lion Oils on a competitive basis?

A Yes.

Q And Lion Oils markets it on a competitive basis?

A Yes.

Q So therefore these two statements reflect to the best of our ability the true situation?

A Yes.

MR. PLOTKINS: Yes.

Q MAJOR LIPSETT: It does not include sales to jobbers or sales wholesale?

MR. PLOTKINS: The Refining Company does.

MAJOR LIPSETT: But this Exhibit "599"?

MR. PLOTKINS: Exhibit "599", no. Well that is not exactly correct. What we mean, Mr. Commissioner, is that we have eliminated the amount in dollars and cents of sales to jobbers from these figures but the administration and general figures shown here are arrived at after allocating to the Lion Oil Company administration and general, a portion of the profits or margin from the jobber's sales so as to reflect the true cost of handling the jobber's sales and we have done that so as to come to the truth as near as we possibly could and these figures have been checked against the actual realization of each company and they come out within one or one and a half per cent, so that we have a test check on them.

Q MR. PLOTKINS: Now would you say, Mr. Logie, that these figures are true and absolutely correct according to the records of the both companies, the Lion Refining Company and the Lion Oils Limited?

A To the best of my ability.

Q And that they can be relied on to that extent?

A Yes.

MR. FRAWLEY: Thank You.

THE CHAIRMAN: The next witness.

MR. PLOTKINS: I would like to go into the Witness Box for five minutes and go over three figures here which Mr. Logie, I cannot question Mr. Logie about them and I want to make some remarks on them.

MR. FRAWLEY: Dealing with the Exhibits just filed?

MR. PLOTKINS: Yes.

MR. FRAWLEY: Then use the Exhibit just filed.

LEON L. PLOTKINS, having been recalled:

WITNESS: After the statements were prepared certain facts became apparent and on this statement --

Q MR. FRAWLEY: Give it its number please.

A Exhibit "599", there are three columns that show a loss, marked out in red.

One of them is "Gold". The sales were $68,592.41. The gallonage handled by the Lion Oils was 413,363 gallons. Now that particular product is purchased from the Texas Company, trucked to Calgary and sold in competition with other leaded standard gasoline. Now that particular item shows a loss of $1,558.85. In other

words after bearing its true and proper share of administration and selling expenses it has resulted in a loss of $1,558.85, or a loss of .377 cents per gallon, a little better than one third of a cent a gallon. In other words we have marketed that for nothing and paid for the privilege of marketing it.

Now "Flight" is another product which we purchase. Flight is a very cheap gasoline consisting mostly from 85 to 95% absorption gasoline, casing head, which we also purchase. Last year we purchased it from the Imperial and from the Gas and Oil. Now we were called upon to pay a price which resulted when we sold it in competition with the other comapnies, resulted in a loss of $381.61. Now the amount of money we handled there was $13,115.79 and the loss per gallon was .302; in other words we lost roughly one third of a cent a gallon handling it. Now that is the second product.

Then the third product is naphtha. Naphtha is a product we purchase from the Imperial or from the Gas and Oil. In the early part of the year we purchased it, as I recollect, from the Imperial. Later on we purchased it from the Gas and Oil.

Now all these purchased products we naturally have to go in the market and pay what the best, we must make the best arrangement we can and buy it and being we are not producing it or I am not in a position to produce it, we naturally have to pay the price that we are asked and after we have bought those products we have to go out and sell them in competition with the other companies, amongst whom are the companies that manufacture those products.

Now that particular product "Naphtha" resulted in a loss of $63.56, or .07 cents.

L. L. Plotkins

Roughly it just balanced.

Now the point I am going to make is this, that we had a spread on Gold, that is our Gold is what we call it, Gold Gasoline, it is a standard leaded gasoline that we purchased from the Texas Company, the average spread was 3½ cents per gallon. In other words the laid down cost at our refinery was 3½ cents below the Imperial posted tank wagon price at Calgary.

Now as we have been informed, the other companies, Maple Leaf, Bell and Canadian Oils, have been working on a 6 cent margin. Now naturally our marketing cost being slightly more than 3½ cents, it amounts to 3.87, and we took a loss into consideration. If we had had a 6 cents spread we would have shown a very handsome profit because we handled 413,000 gallons of it but we did not and the reason we did not is because the best arrangement we were able to make or were able to make last year was to take a 3½ cent spread. Now we could not do any better from the Imperial or the British American or anybody else.

Now in connection with "Flight", Casing Head is the same thing, we had to buy that and sell it in competition with the Imperial because the Imperial sets the price, at a price that there was no margin. The Imperial knew it, the other companies knew it.

Now Naphtha the same way. What I am trying to point out is this that because of the industry's ability, the major, dominant unit in the industry's ability to set the price for the sale, the sale price and because of the industry's ability to set tank wagon prices for the sale by drum and because of the industry's ability to set jobber prices, - forgetting about crude entirely, - they

are able to judge and ascertain what is the cost of marketing by the average small company or even the reasonably large company and the margins are set accordingly. Now we find then ----

Q THE CHAIRMAN: Now what point are you making?

A This is the point, I am coming to it now.

Q You say they get to know where you are at, so to speak?

A Where we are at.

Q Yes?

A And our company is only one of dozens of marketing companies and because of the situation that is created, where we work for nothing, in other words the average marketing company works for practically nothing ----

Q Yes?

A And they have to rely on other services, such as selling other goods, to make a profit and they market leaded products and other products manufactured by the major companies at cost and so that the result is, where there is apparently a lot of competition, I mean dozens of companies fighting over the business, actually, because of the control exercised in the profit, in the margins and in the marketing costs there is no profit. Now that is all I want to say.

THE CHAIRMAN: All right.

Q MAJOR LIPSETT: What distinguishes you, Mr. Plotkins, getting only 3½ cents a gallon from Imperial or anyone else, from the jobber that gets 6 cents, what is the distinction?

A Well the jobber that gets 6 cents is usually, and in Alberta, practically 100% a subsidiary of the company that grants the margin.

Q MR. FRAWLEY: Well now, what does that mean,

is the Union Oil Company a subsidiary ---

A No, I said usually.

Q Or the Canadian?

A Yes. The Canadian at the present time is not a subsidiary of the Imperial but it certainly is owned by the Standard Oil of New Jersey but apart from that ---

Q There is not a word of evidence that that is but let that pass, cannot you get your products for less, cannot you buy your leaded products at a greater, better spread than 3½ cents if you bought from the Imperial?

A No. They offered at one time 5 cents but when we came to actually take it they said 3½, exactly what we are getting.

Q You do not think if you went to the Maple Leaf or the Imperial today that you could not get as good a deal from them as Mr. Mayland's company gets?

A I would not say today. I am talking about what happened in 1938. What happened in 1938 is this, that apparently the Imperial had convinced themselves that because there was no source of supply other than themselves that the jobbers, that is the independent jobbers, - now there is a big distinction between the independent jobbers and anyone like the Union Oil,- we are not going to be in a position to buy leaded products except at what marginal price the Imperial was going to sell at. Naturally we would have to accept whatever price the Imperial was willing to sell at and the fact is that I attempted to buy from them and did not succeed. Now the only thing which upset the applecart last year is the entry of the Texas Company into the market and that is the first time in my knowledge they departed from their usual policy of not selling jobbers. In the States my information is that they

do not sell to anybody except themselves but here they started to help us by selling us loaded products.

Q Then when they sell to Artic, do you think you have as good a deal as they have?

A Yes, I have except it happens to not work out exactly the same for this reason, that I am located in Calgary and I buy my products exactly at the same price as Artic does f.o.b. the refinery down there but when it is related to the Calgary price against the Lethbridge price, it does not work out the same.

MR. FRAWLEY: All right, Mr. Plotkins, thank you. Is that all.

MAJOR LIPSETT: Yes.

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HENRY J. APPLETON, recalled:

Q MR. FRAWLEY: Mr. Appleton, you are still under oath?

A Yes.

Q There has been from time to time some comment in the Commission's evidence by various witnesses with respect to the gasoline tax; the tax itself, the 7 cent tax that is imposed; the burden, if there be any, which is involved in the collection, the administration of the Statute, and generally. So it has been thought advisable to have a statement with respect to this tax by a representative of the Department which administers it, and that is why you have been called. You are a member of the staff of the Department of the Provincial Secretary?

A Yes.

Q That is the Department which administers the Fuel Oil Tax Act?

A Yes.

Q You have nothing at all to do with the Fuel Oil Licensing Act?

A Nothing whatever.

Q Your capacity in the Department is what?

A I audit the Oil Companies and see that we get the tax.

Q I want to know what you are. You are an auditor for this Department in the southern part of the Province?

A Covering the whole of the Province.

Q Covering the whole of the Province?

A Yes.

Q You operate out of Calgary though?

A Calgary.

Q Do all the auditors operate out of Calgary?

A Yes.

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Q That is the way it happens to be?

A There are two, just.

Q You and Mr.-----

A Mr. Howell.

Q There is nobody in Edmonton?

A No.

Q So you and Mr. Howell do it for the whole of the Province, but you operate out of Calgary?

A Yes.

Q I suppose the officers of the oil companies are situated in Calgary?

A Yes.

Q What Department of the Government do you come under?

A The Department of Provincial Secretary.

Q MR. FRAWLEY: And have you prepared a brief memorandum setting out a few of the material facts concerned with this Statute?

A Yes. It is mostly here for my own information. I had no idea it was to be presented to the Commission.

Q Do you think it would go into the record better if you slowly read the memorandum into the record rather than file it?

A Well, it could be filed.

Q Well, if you have some copies we will file it?

A Yes, I have some copies.

MR. FRAWLEY: The witness files a memorandum, Mr. Chairman, dealing with the Statute, the Fuel Oil Tax Act, and I offer this as an Exhibit.

(MEMORANDUM IN QUESTION IS NOW MARKED EXHIBIT "600".)

Q I think you had, perhaps, better read it into the record and if questions arise afterwards they may be asked.

H. J. Appleton.

THE CHAIRMAN: Is that the correct name of the Act?

MR. FRAWLEY: The Fuel Oil Tax Act, 1936, being Chapter 9 of the Statutes of 1936. I do not propose to file the Statute. I have given you pamphlet copies of it. It might serve a purpose to file the regulations, although they bear the imprint of the King's Printer and need not be filed. But, perhaps, to have it part of the record?

A I have one copy here with the regulations and the amendments pinned together, of the Act and the amendments.

Q Let me show you these now. Is there just one sheet of amendments?

A Just one sheet of amendments.

MR. FRAWLEY: I will file them and I will supplement it with copies, I am filing Chapter 9 of 1936, being the Fuel Oil Tax Act, 1936; Chapter 17 of 1939, being the Fuel Oil Tax Act, 1936, Amendment Act, 1939. That is the complete Statute then?

A Yes.

Q Then I am filing the regulations which consist of the original regulations, dated the 27th of April, 1936, and Amendments dated the 9th of May, 1936, the 1st of March, 1939, and the 1st of March, 1939, there being two sets of amendments?

A Two sets of amendments, yes.

MR. FRAWLEY: That had better be marked Exhibit "601" and I will have, with Mr. Appleton's help, complete sets of what I have just filed, presented to the Commission?

A Yes.

(DOCUMENTS IN QUESTION ARE NOW MARKED EXHIBIT "601".)

Q Will you proceed with the memorandum you have prepared?

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THE CHAIRMAN: You will give us copies of the Memorandum too?

MR. FRAWLEY: Yes, because we have not got enough copies, but we will have copies made.

A " The Fuel Oil Tax Act, 1936 with amendments and "Regulations put a tax on all Fuel Oils, of 7 cents "per gallon. But Provisions are made in the Regulations "giving the Minister the right to grant permits to "exempt from the payment of tax, Fuel Oil when used for "the specific purpose mentioned in the permit; "the following exemptions are granted: (Under Permit) "1. Cleaning Solvents, used in Dry Cleaning establishments. "2. Heavy Residuum Fuel Oil when used for oil well " development purposes."

Q You are dealing with exemptions. First of all, if nothing was exempt at all, what would the tax be paid upon?

A 7 cents on all fuel oil sold.

Q What does that mean?

A Fuel oil covers all manufactured products from crude petroleum.

Q That is exactly what it is. It is any product manufactured from crude petroleum?

A Yes.

Q In other words, it has a very, very wide definition that you call fuel oil?

A It actually covers the blending of the various products, such as benzol and such things as that mentioned in the Act itself, benzol and naphtha.

Q It might be interesting for the Commission to know, is it the widest definition in any Canadian Gasoline Taxing Statute?

A Yes, it is.

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Q It covers what is commonly called gasoline of all grades, distillates of all grades, Diesel fuels of all grades and every petroleum product one could think of for use for generating power in internal combustion engines, fuel oil within the meaning of this Statute?

A Or fuel which could be mixed with other products to be used in internal combustion engines.

Q That being the definition, you are now going to tell us what the Statute and Regulations do with regard to exemptions from the tax?

A Yes.

"3. Heavy Residuum Fuel Oil when used in oil burning
" Locomotives and for burning in furnaces at Fitting
" and Repair Shops of Railway Companies."

That is a special exemption under Section 4, Subsection 4 of the Regulations.

"4. Fuel Oil to Municipalities for dust laying purposes.

"5. Fuel Oil for the preventive treatment on cross ties,
" switch ties and on sawn or round material in creosoting
" plants.

"6. Vapor Spray Oil, used by Coal companies to spray coal.

"7. Domestic Stove Oil, used for domestic heating purposes,
" Tax free coupons are provided for this purpose, which
" have to accompany the monthly returns of the company
" selling to allow for the deduction of this from their
" taxable gallonage.

"8. Illuminating Kerosene, coupons are also provided for
" this, to allow this to be sold tax free by the companies
" to the consumers. The Oil Companies can obtain the
" Domestic Heating and Illuminating Kerosene coupons by
" applying to Edmonton and stating their requirements for

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" the year.

"9. Exemption is also granted on sales of all Fuel oil
" when made to the Dominion Government, for use by the
" Dominion Government in Government owned vehicles.
" Forms are supplied by the department so that the
" person obtaining the fuel oil can sign to the effect
" that it is used in a Dominion Government vehicle.
"10. Exports to other Provinces are also exempt from the tax."

Those are the total exemptions which we have.

Q MR. COMMISSIONER LIPSETT: What is 10?

A 10 is added, Exports to other Provinces.

Q MR. FRAWLEY: In other words, there is no attempt to collect on what is exported to Saskatchewan?

A No.

MR. COMMISSIONER LIPSETT: It is not in this copy.

MR. FRAWLEY: No, it is not in the copy.

MR. COMMISSIONER LIPSETT: Exports to what?

A Exports to Saskatchewan or British Columbia or anywhere.

MR. FRAWLEY: Mr. Appleton has interpolated that.

MR. COMMISSIONER LIPSETT: I just wanted to put it in the copy.

MR. FRAWLEY: If you just said "exports", Mr. Commissioner.

A " The rebate of Fuel Oil Tax to farmers is now
"taken care of by rebate coupons. These coupons
"represent the six cents tax that was previously
"refunded to the farmer after he had paid the tax
"of 7 cents in cash. These coupons represent $2.70 and
"are to cover the purchase of a drum of fuel oil (45
"gallons). The coupons being valued at $2.70 and one
"cent tax to pay, brings this to $3.15 the amount of

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"tax due on 45 gallons."

Q MR. FRAWLEY: You speak about rebate on the sale of petroleum products to farmers?

A To farmers, yes.

Q The tax itself is how much?

A 7 cents.

Q And the rebate to the farmer?

A Is 6 cents.

Q With some limitation on the transactions which are the subject of refund or rebate?

A No, the only thing is they have to apply to Edmonton, stating their requirements for the year, and that the gasoline is used for agricultural purposes.

Q A refund is allowed only on the petroleum products used or required for agricultural purposes?

A Yes.

Q What does that mean?

A Actual operation in the tractor on the farm.

Q If a farmer has a truck which he uses in his farming operations to bring his produce to his market town, is that agricultural purposes?

A No.

Q The Regulations and the Statute are specific about that?

A Yes. Gasoline used in trucks is not exempt.

Q If a person had a truck which never left his farm. Supposing he had a truck trucking from one part of his property to another. Would the gasoline used in that truck be subject to exemption?

A No, it would still be taxable.

Q In any event, the Regulations and the administration of it

by your Department does not include that sort of operation?

A No.

Q Really, it is simply the gasoline that is used by the farmer in his tractor----

A Or stationary engine.

Q Or stationary engine?

A On the farm.

Q On the farm for agricultural purposes?

A Yes.

Q But on all other gasoline, distillates and so on the farmer uses, he----

A He is taxed 7 cents.

Q Just the same as the ordinary city motorist?

A Yes.

MR. PLOTKINS: You might explain the method by which the farmers obtain the exemption certificates.

MR. FRAWLEY: Perhaps that is being done in the memorandum.

A I mention here that the coupons----

MR. PLOTKINS: But the actual procedure so that we can picture it.

Q MR. FRAWLEY: What Mr. Plotkins means is to go back to the last paragraph and elaborate upon the mechanics of the farmer getting his gasoline at 1 cent, that is gasoline for agricultural purposes?

MR. PLOTKINS: Because there is actually no rebate.

A No. The first of March every year a farmer has to make application to Edmonton stating the requirements he needs in gasoline for that year. He is then allotted a certain number of coupons which cover a 45 gallon drum each. These

represent at 6 cents each $2.70 each, and these are the coupons which he turns in when he purchases his gasoline for farm use during the year.

MR. FRAWLEY: When you come back, Mr. Appleton, to file a set of Regulations, would you bring one of these coupons and file it as a specimen copy?

MR. HARVIE: And the application too.

A I can get the application easily. The coupons would naturally have to come from Edmonton. I would not have any of those.

Q MR. FRAWLEY: You had better arrange to have some sent down?

A Yes.

MR. PLOTKINS: And the application form?

A That would be quite easy, to get it. We have those downstairs.

MR. FRAWLEY: All right, go on with your memorandum.

A "Other refunds are granted for the following purposes:

"(No coupons are granted in these cases, the purchaser "must first pay the full 7 cents tax and then apply for "refund)

"a. For the operation of aeroplanes or motor boats;

"b. For the operation of stationary engines.

"c. For the operation of portable engines and tractors " when used on other than public highways.

"d. For the operation of logging trucks when used " exclusively on other than public highways.

"e. For the operation of vehicles solely owned, con- " trolled and operated by a Municipality and used " exclusively with the municipality.

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"g. For any industrial purpose otherwise than in the
" operation of motor vehicles.
"h. For the operation of domestic appliances and for
" lighting and heating, and where the person by whom
" the fuel oil is so consumed produces to the Minister
" satisfactory proof, in the manner and within any
" time prescribed by the Regulatons, of the payment
" of the tax by him and of the consumption of the
" fuel oil, the Minister shall pay to that person from
" the General Revenue Fund an amount equal to six
" cents per gallon on the fuel oil so consumed."

Q MR. FRAWLEY: That means there is also side by side with the coupon system whereby a farmer gets a number of coupons in advance which he uses as cash almost, you might say?

A Yes.

Q And instead of paying the 7 cents tax on a drum of gasoline, he pays the price of the gasoline and 1 cent and he pays, you might say, the coupons?

A Yes.

Q And that makes up the 7 cents?

A Yes.

Q In addition to all that there is a refund?

A Yes.

Q In addition also to the exemptions-----by the way, did you indicate the manner in which those exemptions---oh, yes, under permit?

A Under permit.

Q That means there is issued at the beginning of the year----

A No, each case is specifically dealt with.

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Q Each case obtains a permit?

A They must apply to Edmonton for this permit in the first instance.

Q If a company wants to use a petroleum product for treatment of ties, that company, that wood preserving company or whatever it might be, applies to Edmonton for a permit?

A Yes.

Q And that permit is sent----

A To them, and a copy to the company from which they are purchasing.

Q The next thing is a refund. The third class is people who pay the 7 cents tax and then they apply on proper forms to your Department for a refund of 6 cents?

A Yes.

Q And then if the case is passed upon favourably a refund of 6 cents is granted?

A That means industrialists.

Q Yes, but I was interested in what you told me yesterday, that some farmers prefer to do it that way also?

A Yes, there are a number of farmers who prefer not to use coupons and pay the 7 cents tax and at the end of the season will apply to Edmonton for a refund of that 6 cents.

Q All right, you have really completed that statement then?

A Yes.

MR. FRAWLEY: Are there any forms that anybody would like to file that are used in connection with these refunds. There are forms.

MR. COMMISSIONER LIPSETT: The 6 cents, Mr. Frawley, applies under every head from a to h. on page 2.

MR. FRAWLEY: Yes.

MR. COMMISSIONER LIPSETT: It is set out under the letter h for domestic appliances, but it applies to all?

MR. FRAWLEY: You see what is drawn to your attention. On page 2 of your memorandum. It is a refund of 6 cents for a, b, c, d, e, g and h?

A Yes.

Q They are all a six cents refund?

A All a six cent refund.

Q In regard to filing forms, I think you should file all your forms together and if there are any forms in connection with the refunds you might file those too?

A I will.

Q f has been left out in this, inadvertently, I suppose?

A No, there is no f there at all.

Q No, but there is g and h?

A I have used these exactly the same as they are taken out of the Regulations themselves.

Q There must have been an f one time and it was cancelled or taken away. All right.

A " The question has been raised as to the inconvenience "caused during the audit: There is no doubt that some "inconvenience would be caused by their own auditors "coming into their office, so that we must therefore "cause some inconvenience. But at the same time that "audit is made we check any worthless accounts they may "have to determine what tax should be paid back to the "company."

Q MR. PLOTKINS: You might stop there and give us a little history of that?

A Probably it will explain itself if I go on, Mr. Plotkins.

Q All right.

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A "During the year 1938 the Government paid back to the "Oil Companies the sum of $23,173.91. The tax is paid by "the Companies on their sales, according to signed agree- "ment, whereby they act as Agents of the Minister for the "collection of the tax. If the company has extended "credit and has not collected the tax from the consumer, "the Government after checking such accounts, refunds the "company the tax paid by them but not collected from the "consumer."

I might say in connection with that it has been the policy of the Government to refund the full rate of tax which they have collected from the companies at the expiration of two years if this tax has not been collected from the consumer. Is that what you wanted, Mr. Plotkins?

MR. PLOTKINS: That is enough for the present.

MR. FRAWLEY: Yes, all right.

" We also pay all Agents of the Minister 2½ % "commission on their collections. This also includes "the value of the coupons collected by the companies. "During the year 1938 these commissions paid amounted to "$137,431.38.

" It is the general practice to make an audit of each "of the Agents of the Minister once a year, sometimes "this is not possible and the period may be longer. "The Imperial Oil Ltd. and the British American Oil "Company Ltd. are only test audits. The time taken for "these audits varies. I find from the checking of "expense accounts that the usual time for these test "audits is three weeks. Audits of the smaller companies "take from two days up. Of course there is, during the

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"year various matters that have to be taken up with "these companies, such as correcting errors and monthly "statements etc.,"

Q MR. FRAWLEY: Mr. Appleton, you have some statements you would like to go into to show to the Commission how much money comes in from the ordinary motorist that pays the full 7 cents; from the farmer who pays 1 cent or coupons; and from the industrialist who pays 7 cents and gets 6 cents back and so on?

A Yes.

MR. FRAWLEY: At this stage I would like very much if the Commission would rise until 2:00 o'clock. I have something very important to do and I would be very much obliged if you could rise now.

THE CHAIRMAN: Any objection?

(At this stage the Hearing was adjourned until 2:00 P. M.)

.....

HENRY J. APPLETON, having been recalled, examined by Mr. Frawley, said:

Q Now Mr. Appleton attached to your statement, you completed the statement part of your memorandum and would you now just briefly tell the Commission what the financial statement attached to your memorandum includes?

A Do you wish me to go through the whole thing?

Q Well just state first what it is, state first why you prepared this statement in a word and then I think if you go through the current year's 1938-39 figures that will be sufficient?

A Well the statement was prepared to show the difference in revenue received over a period of four years, both gross, the commissions and refunds paid, the rebates and the net revenue and the total gallonage over that period and the increase in gallonage.

Q The statement in other words was prepared to try and show what class of people paid this tax?

A Yes.

Q Whether it be the ordinary motorist who pays 7 cents and no refund?

A Yes.

Q Or the farmer who gets a refund and other people whom you call "Industrialist" who pays 7 cents and get back 6 cents?

A Yes.

Q And this statement is an analysis of the receipts to show the revenue and to show that information?

A Yes.

Q Now take the year 1938-39, you show that the gross revenue from all sources from this tax was $5,632,258.92?

A Yes.

Q Then what is the first deduction you make from that gross figure?

A Commissions or refunds paid.

Q That is commissions you paid to the oil companies for collecting the tax?

A Yes.

Q And then refunds?

A Paid to industrialists and farmers.

Q Refunds paid to industrialists and farmers?

A Yes.

Q That is apart altogether from that gallonage which was exempt, the gallonage which was exempt does not then appear in the attached statement?

A No.

Q That figure is $436,477.72?

A Yes.

Q And then the next figure is the amount of the coupons that were presented in lieu of tax?

A That is the cash value of the coupons.

Q Really the cash value of the coupons?

A Yes.

Q Every time a farmer presented a 6 cent coupon in buying a quantity of petroleum products he really was handing in 6 cents?

A Yes.

Q And this figure of $2,242,652.76 was the total cash value of the coupons filed by the farmers?

A Yes.

Q The agriculturalist?

A The total number of coupons turned in to bring up that cash value was 838,792.

Q You find that, that is the fifth last figure in the column?

A Yes.

Q There were 838,792 coupons used and the total cash value for them was $2,242,652.76?

A Yes.

Q Then the next figure you show is what you call net revenue $2,953,128.44?

A Yes.

Q And what is that?

A That is a net revenue which the Province received from the Fuel Oil Tax Act.

Q That is the gross revenue less what?

A Refunds and commissions and less the amount of rebates which in this case are called "cash".

Q Now the next figure you have is just a piece of information for the Commission, the total?

A The total gallonage.

Q The total taxable gallonage sold in the fiscal year 1938-39 was 80,575,251 gallons?

A Yes.

Q Now that is a different figure from any we have had to-date?

A Yes.

Q This is the first time you have put in a fiscal year figure?

A Yes.

Q Running from the 1st of April 1938 to the 31st of March 1939?

A That is right.

Q The next figure is the number of refund claims, you simply put them in for information, 11,846?

A Yes.

Q Then you show the gross revenue paid by the industrialists,other than farmers, that is a gross revenue of $211,094.47?

A Yes.

Q That is the total of the 7 cent tax paid in by those, oh "industrialists", as you have described them in your memorandum?

A Yes.

Q And then you immediately take away from that the refund you had to make to those people because of the fact that they were not, their gasoline was not used on the road, $180,938.12?

A Yes.

Q So you show then a total net revenue from this class of tax payer of only $30,156.35?

A Yes.

Q I suppose that is why you wanted to bring that figure out, it is a fairly small figure compared to the total revenue received?

A Yes.

Q In other words----

A Well the question I believe was asked, what was the revenue paid by the industrialists during the fiscal

year of 1938-39.

Q You understood there was precisely such a question?

A Yes.

Q Well there may have been?

A That was what was handed to me in Edmonton.

Q Well in any event it is informative. We now know that those people who pay 7 cents and get back 6, because they are using it in stationary engines off the road and deisel engines by municipalities, no, some of that is gasoline, but in any event keeping to the memorandum, you have explained it all, those people only pay $30,160.35?

A Yes.

Q THE CHAIRMAN: Assuming for the moment the soundness of consumers of gasoline being subject to special taxation, why, within that class, industrialists and farmers, why should they get special treatment?

MR. FRAWLEY: Yes, well now----

THE CHAIRMAN: Perhaps the witness cannot help us.

MR. FRAWLEY: No.

Q MR. FRAWLEY: Mr. Appleton, I buy a drum of gasoline and I propose to use it, you know nothing to the contrary anyway, in my automobile, I pay 7 cents?

A Yes.

Q In another capacity or my friend Mr. Plotkins, goes and buys a barrel of oil and he intends to use it, he is a road contractor and he intends to use it in a gravel pit?

A Yes.

Q In a stationary engine in a gravel pit to further his contacting operations?

A Yes.

Q He pays 7 cents, applies for a 6 cent refund and gets the refund?

A Yes.

Q And therefore pays 1 cent?

A Yes, he gets that.

Q Taking those two transactions what can you say as to why that should be so?

A I do not know why it should be so at all. We only have to administer the Act as the Act is laid down and they are entitled to that refund and therefore we must give it to them.

Q Then it may be fair to ask you to conclude with me that the desire of the Act is that the special burden of it should fall on those people who use motor cars?

A On the highways.

Q Yes?

A Yes, that seemed to be what the Act was made for.

Q Let me ask you this, the railways, I understand have motor cars, gasoline motor cars?

A Yes.

Q On which they put a particular kind of wheel and run them on the railway tracks?

A Yes.

Q How much tax is paid on that?

A They pay 1 cent.

Q So it comes down pretty well to a conclusion that it is the desire that the whole 7 cents should be paid and

only paid by those people who put it in motor cars?

A Use it on the road.

Q And use their motor cars on the highways?

A Yes.

Q MR. PLOTKINS: On public highways?

A On public highways, yes.

Q MR. FRAWLEY: If I have a car that certainly never leaves the City of Calgary, never leaves the streets of the City of Calgary, I nevertheless pay the 7 cent tax?

A Yes.

Q Whose streets are kept up by the corporation of the City of Edmonton I suppose, the City of Calgary I mean?

A Yes.

Q So far as we know?

A Yes.

Q But nevertheless I pay the same tax as though I was using my car exclusively also on the main Calgary-Edmonton highway?

A Yes.

Q I see. Well that brings out the fact.

THE CHAIRMAN: Yes. What is the definition of "industrialists", which governs?

A The industrialists here, we have a list and I will read off to you----

Q MR. FRAWLEY: First of all is the word "industrialist" a word of your own?

A It is a word of my own.

THE CHAIRMAN: Oh I see.

Q It is intended to include what?

A That was the word used in the questionnaire I received and that is why I used it.

Q That is the next statement Mr. Appleton is coming to. Then continue, the first of these financial statements we have, now you are dealing with the revenue from farmers?

A Yes.

Q And you show that the revenue from farmers at 1 cent per gallon, by the way, received by way of a gross of 7, and a refund of 6?

A Yes.

Q That figure is $19,444.79?

A Yes.

Q And then the big item, the revenue from farmers at 1 cent per gallon by use of coupons is $373,775.46?

A Yes.

Q In other words----

A Every gallon going to the farmer must pay 1 cent.

Q And the farmer in other words pays at the rate of 1 cent, I mean paying at the rate of 1 cent it is $373,000 odd?

A $393,000.

Q Oh yes because you add those two figures?

A Yes.

Q And you have $393,220.25?

A Yes.

Q So relating this again to the gross revenue, we find that the farmers at 1 cent per gallon paid roughly 400 thousand dollars out of a total gross revenue of $5,600,000 odd?

A No, no, out of a net revenue of 2,000,000 odd.

Q Yes of course, out of a net revenue of roughly 3,000,000 dollars?

A Yes.

Q Then the next item is the number of couponsyou just put that down for information purposes, 830,792?

A Yes.

Q You gave us that figure before and the value in money of those coupons, of those 838,792 coupons was $2,242,652.76?

A Yes.

Q Then at the bottom of this statement you have some extraneous information which will probably be useful. It shows that in the year, the fiscal year 1938-39 there were 84,958 automobiles licensed?

A Passenger cars.

Q Passenger cars licensed?

A Yes.

Q And 21,221 trucks licensed?

A Yes.

Q Of all kinds of trucks?

A Yes.

Q Whatever sort of license they ultimately had to buy they were licensed by your own department?

A By our own department.

Q To allow them to operate at all?

A That does not cover the P. S. V. or the commerical vehicle, C. V. plate.

Q MR. PLOTKINS: But they are included in that figure?

A Oh yes.

Q MR. FRAWLEY: They all have to have a license before they can go on the roads at all?

A Yes.

Q Wheel base license?

A Yes.

Q So much then for the first statement. Now you have a statement, the last statement shows the amount of taxes paid by farmers and industrialists, this is the statement?

A No, this is the amount of refund which is paid to farmers and industrialists during that period.

Q This is the statement,Mr. Chairman, that you were just asking about. Mr. Appleton has a classification here of farmers and industrialists. I suppose what one might do is, you have the first item , the first item is farmers?

A Yes.

Q Then all the rest of them are in the second classification, industrialists?

A Yes.

Q Or what you call "industrialists" for the purpose just by way of segregation of taxes?

A The various claims which we have received from others than farmers.

Q Aeroplanes, blacksmiths' shops and the like?

A Yes.

THE CHAIRMAN: None of those are used on the road.

Q MR. FRAWLEY: Because none of those people use the road, that is the point?

A Yes.

Q THE CHAIRMAN: "garages", what does that mean?

A Garages, I have just shown it here, it is refunds to garages covering gasoline used in the washing of parts.

MR. FRAWLEY: There is an explanatory note at the bottom.

Q MAJOR LIPSETT: Municipalities, do they not use the roads?

A Yes, but municipalities, that is the vehicles used by municipalities are exempt from taxation, when they use their own vehicles on their own highways of their own municipaltiy, like for instance the City of Calgary, all cars owned by them are entitled to a refund of 6 cents a gallon.

Q Providing they are operating in the City?

A Providing they are operating in the City.

Q There is no special provision for the municipalities except when they do not use the highways?

A Yes.

Q MR. PLOTKINS: Did you say they were entitled to a refund of 6 cents or a complete refund?

A No, a refund of 6 cents.

Q MR. FRAWLEY: That is what I was going to bring out, it is intended to draw a distinction between those cases which are absolutely exempt and those cases that pay 7 cents and get back 6?

A Yes.

Q Now one item here of fuel oil, there is an exempt item

it is number four on your memorandum, fuel oil to municipalities for dust-laying purposes?

A Yes.

Q One might as well say "petroleum products", that fuel oil is petroleum?

A That is exempt from taxation altogether.

Q Any petroleum product bought by the municipality and used, which they satisfy you by some sort of declaration, that they intend to use for dust-laying purposes they pay no tax at all?

A No tax at all.

Q Even although that product might be, would be capable of being used to generate power?

A No, it would not be, in this case it is generally heavy road oil for dust-laying purposes only.

Q And then take coal oil, illuminating kerosene or coal oil, that is something which might be used to generate power in an internal combustion engine?

A Yes.

Q Very well, but you do not tax it at all?

A No, not under the Act.

Q When it is used in coal oil lamps and lanterns?

A Yes. Of course the price is one factor which governs that quite a lot.

(Go to number 13,319)

Q And then anything that the Dominion Government buys, whatever they may use it for at all, anything they buy is completely exempt?

A Yes.

Q And then when you come to the last sheet of your menorandum you show the classes of people that are entitled to buy at 7¢ or have to buy at 7¢ but are entitled to a refund of 6¢?

A Yes.

Q Blacksmiths. What is that blacksmiths item $9J6 in 1938-1939?

A We find a lot of these blacksmiths have small plants for compressing air and stationary engines for running hammers and engines for running bellows and various things of that description.

Q Any business concern buying petroleum products and using them other than for the propulsion of motor vehicles on the highways gets a refund of 6¢?

A Yes.

Q You do not see fit to exempt them completely?

A No.

Q You draw a line there but you charge them 1¢ tax?

A Yes.

Q I think the statement speaks pretty well for itself. I think that is all I will ask you.

THE CHAIRMAN: You will charge yourself with the responsibility of getting us a copy will you?

A Yes I will Sir, and I will have copies of the Act done up.

MR. FRAWLEY: Yes.

THE CHAIRMAN: That will be splendid, if

H. J. Appleton

you put them all in one folder for our convenience.

A Yes.

MR. FRAWLEY: We asked this morning that you should file a number of forms that are used in the administration of the Act and if you would be so kind as to do that up in four or five sets. Mr. Harvey asked me to ask you do any of these figures tie in, the last two financial statements. Can you relate one to the other? Here is one I see, yes.

A Yes they both tie in.

Q $180,938 is the figure here. That is all that is intended to show. I think that is everything.

A This statement here showing the various industrialists that shows this figure and shows the net tax paid by them.

MR. NOLAN: Mr. Appleton what happened in 1936 because in your first column I see that the farmer were paying $825,000 for the fiscal year ending April 1936?

A Yes.

Q For the fiscal year ending 1939 they are only paying $116,000?

A That is when they first brought the rebate coupons into existence.

Q In your first column they were paying it at the then rate of tax per gallon, whatever it was?

A Six cents. No they were still paying 7¢ and the refund was 6¢. But you will notice that is a cash item. In the next instance you will find the rebate coupons $988,694.82.

Q I was looking at the last page of your statement.

MR. FRAWLEY: Mr. Appleton will you look at the last statement that you filed showing the amount of tax paid by farmers. For the fiscal year 1935 - 1936 the item under farmers, or opposite farmers is $825,000 ?

A Yes.

Q And in 1938-9 the same item is $116,000 odd. That is a tremendous difference there?

A. Yes.

Q What accounts for the difference?

A The coupons which we used.

Q Explain it now. Is it a fact that the farmers did pay $825,000?

A No.

Q For tax in 1936?

A No the Government paid the farmers $825,000 by way of refunds in cash but in 1938-9 we paid them $116,668.78.

Q Your statement showing the amount of tax paid by farmers and industrialists at 1¢ per gallon, the very first figure is $825,000?

A I see what you are getting at. That should have been --

Q It is really the indistrialists paid the amount net at the bottom?

MR. PLOTKINS: Is it not because previous to that introduction of coupons the farmers paid the whole tax on gasolene as it was defined then?

A Yes.

Q And therefore paid considerably more money than he is paying today?

A Yes.

Q That is the explanation?

A Yes.

THE CHAIRMAN: In that last statement do you mean that this $825,000 is something the Government paid the farmers?

A Yes that is the refund that was paid to the farmers.

MR. HARVEY: You will see it at the bottom.

MR. FRAWLEY: In the sense he put it in there opposite the word farmers it is possible confusing --

A. Yes that top should not be in. This should be the next tax paid by industrialists only.

THE CHAIRMAN: Where is what the farmers did pay?

MR. FRAWLEY: In 1936 --

A 1936-7.

Q 1935-6?

A $457,660.

MR. NOLAN: That is on the other statement. That is what they paid net 1ø?

THE CHAIRMAN: That is opposed to $19,000 in this year 1938-9.

MR. FRAWLEY: That is opposed - for 1938-9 what is the corresponding figure the farmers paid in cash.

A In cash $19,444.

MR. HARVEY: No $393,000?

A Yes $393,220.25.

MR. FRAWLEY: What did the farmers actually pay, however they paid it actually coupons or otherwise?

A $393,220.25, that is the actual cash paid in.

H. J. Appleton

Q It shows a gross from $136,000 in 1935-6 ?

A It has gone up $300,000.

THE CHAIRMAN: This pays back the coupons they paid --

MR. FRAWLEY: That means using the coupons the revenue from the farmers at 1¢ per gallon? That is just through refunds?

A Yes.

Q On their coupons?

A Yes.

MR. FRAWLEY: Looking at the last statement you have filed, Mr. Appleton, we want to know precisely the relationship between the two figures, what the farmer paid in cash, whatever technique he used to pay it in 1935-6 and in 1938-9?

THE CHAIRMAN: Out of his pocket?

MR. FRAWLEY Yes what he paid?

A The net amount paid was $137,666.05 in 1935-6.

Q Yes?

A That is the actual payment to the Government.

Q Yes?

A In 1938-9, $393,220.25.

Q So that the last sheet is a little bit confusing? The heading. But in any event the set-up on the statement may be a little confusing but what you do attempt to show is what the industrialists, as you call them, paid in out of their pockets regardless of refunds that they got, What they actually paid in tax and the figures there are for 1935-6 they paid $17,746.30 is that right in 1935-6?

A Yes.

Q And in 1938-9 that same figure was increased to

$30,156.35.

MR. COMMISSIONER LIPSETT: That is industrialists only.

MR. FRAWLEY: From the people called industrialists. The farmer is not in that at all?

A No he is not in that figure at all.

Q There was one other piece of information you had collected for me and I think I will put it in. It is useful information. It may become more useful when the Dominion Government customs man comes next week. You have prepared some figures showing imports from Montana both of refined products and crude for the year 1939, by months,

A Yes, up to the end of July of this year.

Q These are thoroughly reliable figures are they?

A Yes.

Q Where do they come from?

A From our own agent

Q Is this a statement of both refined products and crude for the year 1939 month by month?

A Yes this is one and the crude is underneath.

MR. FRAWLEY: I will file that.

THE CHAIRMAN: By month covering what period?

MR. FRAWLEY: January to July 1939 inclusive. Both months included. Two sheets. The first sheet refined products and the second sheet crude products. You really mean crude oil?

A Crude oil.

Q I think we had better change that.

(STATEMENTS IN QUESTION ARE NOW MARKED EXHIBIT "602")

Q Have you any copies of that?

A Yes I have some here.

Q You had better let us have as many as you have. Now let me ask you a few questions. Mr. Appleton in connection with the collection of the tax you made a point today - would you let me have your memo please again. You say here on the second page of your memorandum, " The question has been raised as to the inconvenience caused during the audit: There is no doubt that some inconvenience would be caused by their own auditors coming into their office, so that we must therefore cause some inconvenience. But at the same time that audit is made we check any worthless accounts they may have to determine what tax should be paid back to the company. During the year 1938 the Government paid back to the Oil Companies the sum of $23,173.91. The tax is paid by the Companies on their sales, according to signed agreement, whereby they act as Agents of the Minister for the collection of the tax. If the Company has extended credit and have not collected the tax from the Consumer, the Government after checking such accounts, refund the company the tax paid by them but not collected from the consumer." You point that out to indicate you are doing something of benefit to the company I presume?

A We have an agreement which I show here in form which is entered into between the Agent of the Government - who is in this case the Oil Company - and the Minister for the collection of this tax, which means that the tax will be paid on all sales made by them.

Q THE tax must be paid on all sales?

A On all sales made by them.

Q And if any of these sales turn out to be bad debts?

A If they give credit and they turn out to be bad debts at the end of two years we examine those accounts and we refund them the full amount of the tax paid at the full 7¢.

Q Are those accounts covered in this Agreement?

A No.

Q This is just an agreement appointing the Agents of the Minister.

A Yes.

Q Perhaps it is not necessary to file this. Why do you appoint the Imperial Oil Limited the agent of your Minister for collection of the tax?

A Well I do not know why. We would have to appoint some body to collect the tax and we just adopt the policy of appointing most of the major companies and most of the distributors throughout the Province. We have about sixty-five all told

Q The tax is paid ultimately at the pump by the purchaser?

A Yes.

Q If I buy five gallons of gasoline I pay 35¢ for the Alberta Government when I buy that gasoline?

A Yes.

Q So that I am paying the tax but do you receive that tax before I ever pay it?

A No I would not say that.

Q But you do not receive it from me direct?

A No.

Q You have no contact with me?

A No.

Q With whom do you have contact? Well perhaps taking one transaction will explain it. I go to a service station and I buy five gallons of gasoline and never mind what I pay. I pay too much of course. But I pay 35¢ to the service station operator for the Alberta Government?

A Yes.

Q What happens to my 35¢ ?

A Whoever the operator is will turn it into the Company that he buys from.

MR. NOLAN: What station do you go to?

MR. FRAWLEY: He takes it from me and then he does what with it?

A He pays it into the company from whom he buys his gasoline.

Q Say that is the Imperial Oil Company?

A Yes.

Q What does the Imperial Oil Company do?

A They remit to us.

MR. HARVEY: If it is a Government tank who pays the tax?

MR. FRAWLEY: A Government pump? If it is the Ministers garage at Edmonton you mean, where the Ministers cars are looked after?

A They are just in the same way. They have to pay the Imperial Oil. They buy from the Imperial and the Imperial Oil remits to the Government. The Government garage is not exempt from taxation.

A I am asking those questions to open up a discussion. I hear someone say that what what Mr. Appleton says is not the correct procedure. You say the tax is paid

in the last analysis by the consumer, the man who puts it into the tank of his car?

A Yes.

Q You do not contact him. How many contacts have you got for the collection of the tax?

A Just sixty-five Agents who we have appointed for the Government.

Q You have sixty-five Agents?

A Yes.

Q There are thousands of retailers?

A Yes.

Q And scores of thousands of consumers?

A Yes.

Q But you have reduced it to its simplest proportions and you collect it from those sixty-five people or companies?

A Yes.

Q They in turn collect it --

A From the retailers.

Q They are your agents who collect it from the ultimate consumer?

A Yes.

THE CHAIRMAN: John Smith buys gasoline and he does not pay cash. He has credit at his garage. But he does not pay the garage. The garage has to pay your Agent just the same does it?

A Well the garage --

Q Is that the practice?

A Yes he would have to pay for his gasoline to the Company which he purchased from.

Q Plus the tax which he should have collected but did not?

A Yes.

Q So that the Government always get the tax?

A Not always.

Q Why not?

MR. FRAWLEY: They always get it?

A No sometimes an Agent or collector of ours may go a little wrong.

THE CHAIRMAN: But short of thieves do they ever lose anything in the way of tax? Is there not some suggestion of the return of the tax --

MR. FRAWLEY: That is the very thing I was talking about. First of all short of bankruptcy and thefts and you have had something to do with both of these kind of people?

A Yes.

Q Short of that you always get the tax?

A Yes.

Q But they come back after two years and say, "We paid you tax on John Smith's account and it is a bad debt, look at it, " and you look at it and agree that it is a bad debt and you send in a cheque for the amount of the tax.

MR. NOLAN: That is not what the Chairman meant. John Smith might pay all right, that is the agent, but if John Smith, the customer, did not pay John Brown, what happens?

Q MR. FRAWLEY: That is what I meant. John Smith is the ultimate consumer. He had bought gasoline and had not paid for it, whether it be a consumer account with a retailer or an account between the retailer and the oil company. For instance, if the Imperial Oil Company sold gasoline to a dealer and it had given him some ill-advised credit and it had paid you the tax on that gallonage that went to that service station X ?

A Yes.

Q And they waited and waited until John Smith left the country or the retailer went into bankruptcy, in any event the debt was not paid, the Imperial Oil did not get any part of its debt, either for the gasoline or for the tax, and the Imperial Oil brings that to your attention?

A We refund it.

Q You refund that amount?

A Yes.

Q THE CHAIRMAN: Why? It is new that a tax imposed on everyone, or at least everyone in a class, would have credit extended at the discretion of an agent?

A In 1929 there was an arrangement made then with the various companies collecting - at that time I believe it was just the Imperial Oil and the British American - that any tax which they paid that way and did not collect from the consumer, they would be refunded.

Q I suppose you have no opinion, however, as to whether it is wise or unwise?

H. J. Appleton.

A No.

Q MR. FRAWLEY: The privilege is extended, of course, to all agents of the Minister now?

A Yes, there is nothing in the Act about it. It is just a matter of courtesy or in connection with one letter that was written at one time.

Q MR. COMMISSIONER LIPSETT: The effect of it is to put it in the power of your agents, not only to collect the tax but to exercise a discretion as to whether to give credit or not, on the Government tax?

A I do not know whether that would be the effect of it or not.

Q If the Imperial Oil decides that they will give credit on your tax, you pay it back if it was a bad credit?

A At the end of two years, yes.

Q THE CHAIRMAN: Does it amount to much. What were the refunds to agents?

A $23,000.00 in 1938. That, as a matter of fact, was a very large amount that year.

Q MR. FRAWLEY: That would go back, that would represent bad debts----

A Oh, three or four years previous to that.

Q MR. COMMISSIONER LIPSETT: The bad debts of 1938 when they become to be refunding in 1940 may be away higher than that for all the figures show, may they not?

A Not under this coupon system that they have at the present time, there is not nearly the losses. There is not so much tax involved. There is actually only one cent.

THE CHAIRMAN: That is a saving, you charge less.

Q MR. FRAWLEY: There is a lot of gasoline sold on credit. Personally, I pay my gasoline bills at the end

of the month or, perhaps, two or three days after the end of the month?

A Yes.

Q But if I did not pay that bill at all. That is just a bad account, the thing we are talking about. After two years somebody, the retailer or the oil company, would come to you and say "There is a bad debt of Frawley's. There is $10.00 tax in that and we want that back." Would you give it to him?

A Not to the retailer. If the retail outlet is owned and operated by the big companies they have got that but not if he is a retailer himself who is not an agent of the Minister. We have never refunded in those cases.

Q THE CHAIRMAN: The ordinary retailer does pay the tax to the oil company?

A Yes.

Q Whether he collects the tax from his customer or not?

A Yes.

Q But if the oil company makes a mistake with respect to any of their outlets, you will refund it to them?

MR. FRAWLEY: The big companies have not any retail outlets. Mr. Plotkins has a couple. But the Imperial has none and the B. A. has none?

A They used to have and we have paid lots of refunds to the companies under the circumstances.

Q You hold yourselves out to the oil companies that you will refund to them the amount of the tax involved in their bad debts?

A Yes.

Q But if the bad debt is between the retailer and the consumer, what happens?

H. J. Appleton.

A I do not know.

Q MR. NOLAN: The retailer bears that?

A The retailer bears it.

Q MR. COMMISSIONER LIPSETT: If he is an independent but if he is a branch of a large company he does not?

MR. NOLAN: There is no such branch.

MR. FRAWLEY: The larger companies are not engaged in retailing. They are all lessees.

MR. COMMISSIONER LIPSETT: You say Mr. Plotkins?

MR. FRAWLEY: I am speaking of the major companies. Mr. Plotkins says he deals for cash. But if it should happen that the Imperial Oil Company put in a retail oil business you would not give them any more privileges than anyone else?

A Yes, we have had to examine their retail service station accounts and give them refunds on those.

Q When you say their retail service station accounts, that must be a matter of some years back?

A Yes, some time back now.

Q At the moment, however, there is no such thing?

A There is none, no.

Q Either the B. A. or the Imperial, or the Union. I do not know that any of these companies are now engaged at all in the retail sale of gasoline. So that it is just these company retail accounts, the Imperial or the B. A., one of their retail accounts. How about the gallonage they sell direct from their agencies to farmers?

THE CHAIRMAN: I do not know how you will lose any if the garage has got to pay.

A That is where most of the worthless accounts come in.

H. J. Appleton.

Q Unless there would be the odd case of bankruptcy, I suppose?

A Yes.

Q MR. FRAWLEY: I am learning just for the first time about these things. The Imperial Oil Company has two kinds of customers?

A Yes.

Q The farmer consumer, by and large, and the dealer?

A Yes.

Q They are sold from their bulk stations all over Alberta?

A Yes.

Q One of the dealers being sold from their Innisfail bulk station goes bad and they have $1,000.00 worth of bad debts to that dealer, between the dealer and themselves?

A Yes.

Q They get a refund from you for the amount of tax involved in that bad debt?

A Yes.

Q And then they have another class of customer farmer consumer that has a direct dealing between the Imperial Oil and the farmer consumer?

A Yes.

Q And they extend credit to these farmers, as they do, perhaps, and some of these debts go bad. Then they acquaint you of it and you give them a refund of the tax involved in that?

A Yes.

Q But when you come to the retailer and the consumer that has an account, that is absolutely gone. That is beyond reach of this refund of yours?

A If a dealer, if he goes to work and sells to customers throughout the country and he has bad debts, he does not get a refund there.

Q Your arrangement is cut off and ends at the deal, at the transaction between the oil company and the dealer?

A And the agent of the Minister.

Q No, that is the other way. I am calling the oil company the agent of the Minister. It ends in that transaction between the agent of the Minister, the oil company, and the retail dealer?

A The retail dealer does not get any.

Q He might extend a lot of unwise credit but it does not matter. He has just to pay?

Q MR. COMMISSIONER LIPSETT: Why, Mr. Appleton, should a Minister's agent have any right to give credit on the tax. Why should he not get his money for his tax before he lets out the gasoline, like a postmaster would have to get his money for the stamps?

A That is the policy laid down and we just follow it. That is all.

Q Can you see any justification for that leakage yourself. Is there any reason that occurs to you why the agent should not be made responsible for getting the tax before they give out any gallonage?

A No.

Q MR. FRAWLEY: You have no control to prevent credit being extended on your tax, you would have to see to it that no gasoline was sold on credit?

A Yes, that is the only thing we would have to do.

MR. COMMISSIONER LIPSETT: Surely not. They would have to see to it that no gasoline was sold without the tax being provided for.

MR. FRAWLEY: If I went to get 5 gallons of gasoline and I said "I do not choose to pay for this. You

trust me or not." I would have to pay 35¢.

MR. COMMISSIONER LIPSETT: This is the Minister's agent, as I understand it, who supplies the dealer to give you your gasoline. In the case of that Minister's agent I was asking Mr. Appleton if there was any reason whatever why that agent should not be made responsible for giving any credit on the tax part of it. Let him give credit on the gasoline if he likes.

A There is no reason why he should not. I think it would be rather hard to enforce though.

MR. FRAWLEY: It is all treated as one. I suppose as far as the retailer is concerhed, the price that he pays the Imperial Oil for his gasoline, or Mr. Plotkins or anybody else, is one lump sum?

A Yes.

Q Gasoline plus tax?

A Yes.

THE CHAIRMAN: I should think they would welcome it. It would be clear to the customer that he was paying quite a share in taxes as part of the cost of the gasoline. If he paid cash for it at the end of the month he would be seeing his gas charges, less 7 cents. I think it would be rather useful to the oil industry to show the tax where it is, as a tax.

MR. FRAWLEY: Some retailers, not in Alberta certainly, but it is very prevalent in other parts where they show on the pump the price of the gasoline. But when you come to pay for it you have to pay a little more. That is the tax. In other words, in Calgary, the price on the pump would be 20 cents. That is for a gallon of gasoline. But you cannot get a gallon for 20 cents.

H. J. Appleton.

MR. COMMISSIONER LIPSETT: Why should Government agents have discretion to give credit on a Government tax. Should not their duty be to collect the tax and if he wants to take the risk let him take it. Why should the Government agents have that discretion?

MR. FRAWLEY: Taking that risk has put some moneys on the books that has not been collected. It runs into many thousands of dollars, I know.

MR. COMMISSIONER LIPSETT: I was asking Mr. Appleton if he sees any, as a representative of his Department, just occasion for that?

A We have always taken the stand they can give credit if they want to. As far as our Gasoline Tax is concerned, we do not allow credit.

THE CHAIRMAN: But you make refunds.

Q MR. COMMISSIONER LIPSETT: If you take that stand there should be no refund?

A We have paid refunds at the expiration of two years.

MR. FRAWLEY: It is just one more capitulation to the oil business, that is all.

Q I want to ask you something about Exhibit "602". This is a statement showing the imports of refined products from Montana.

(Page 13,338 follows.)

H. J. Appleton

Q And you have an item here, Tax collected at Coutts?

A Yes.

Q It would look as though the tax collector at Coutts brought in 24,871 gallons, or barrels, which is it?

A No, gallons.

Q In January 1939 but of course the tax collector did not do any such thing?

A No, those are the individual importers, mostly farmers.

Q Through the port of Coutts?

A Yes.

Q The item might be more correctly, "Miscellaneous Imports" through the port of Coutts?

A Yes.

Q And so on for other ports, Aden?

A Yes.

Q Wild Horse?

A Yes.

Q Whiskey Gap?

A Yes.

MR. FRAWLEY: That is all, thanks very much.

THE CHAIRMAN: Any questions, gentlemen.

MR. PLOTKINS: I would like to clarify some of these points.

Q MR. PLOTKINS: Now the tax, Mr. Appleton, is collected at the time the sale is made to the dealer?

A Yes.

Q So that the dealer is not concerned with any tax?

A No.

Q He pays so much for his gas?

A Yes, that is right.

Q Which includes the tax?

A Well the tax is generally shown separate on the invoice so he knows which portion of the amount he is paying as taxes.

Q So that so far as any losses are concerned he has no means of recovering them?

A None.

Q Now coming back to this statement, at what time or in what year did the system of coupons come into effect?

A 1936 and '37, I believe. I have it here.

MR. FRAWLEY: Yes, that is right.

A Yes, 1936 and '37.

Q MR. PLOTKINS: Now previous to that ---

A That would be the first of April, 1937.

Q Previous to that time the farmer paid the full tax on gasoline purchases as the Act at that time defined "gasoline"?

A Yes.

Q And there was no refund?

A No refund, yes, there was a refund but no coupons, no rebate coupons.

Q And previous to that, previous to the time when there were no refunds was there not a time when you collected the tax and the farmer never got any rebate on gasolines?

A I believe there was but the tax at that time was only about 2 cents a gallon.

Q Yes, it was three and then it was five?

A No, when it was 3 cents we paid a refund.

Q Paid refunds?

A Yes.

Q So what is your reason or can you give us any reason why the farmer should get a refund when he is able to buy gasoline

and use it in his cars and trucks as well as in his tractors and other stationery engines and you have no means of knowing where he actually uses it, whether he actually uses it in his car or in his tractor?

A No, not outside of the man's own statement which he makes on the application for the refund claim.

Q Well what is your findings in inspecting this difficulty, you have at times had complaints about farmers not paying the tax on gasoline used in their trucks or cars and going on the road with them?

A Oh, yes.

Q You have?

A Yes.

Q Is that very prevalent, the farmers using gasoline in their trucks?

A We have quite a number of complaints.

Q Now why under those circumstances has there been nothing done to remedy that situation?

A I would not know. I have nothing to do with the policy.

Q Now coming back to coupons, you have had a considerable number of complaints I understand where coupons are used as money?

A Yes.

Q Not only for the purpose of buying gasoline and using them as exemption certificates but also to purchase other merchandise?

A Yes.

Q Now ----

MR. FRAWLEY: Other merchandise altogether?

MR. PLOTKINS: Yes.

Q MR. PLOTKINS: Groceries, clothing?

A Yes.

Q In other words it is Social Credit money?

A I do not know.

Q I mean it has been used as money. Now is that not the result?

A Yes, we have lost money through that.

Q It is very easy to do that, is it not?

A Yes.

Q Under the present regulations?

A Yes.

Q So that the Province must lose a considerable amount of revenue through the fact that there is a traffic in these coupons as cash?

A Yes, they can lose some.

Q Well they do actually?

A Yes, they do.

THE CHAIRMAN: I do not understand that, a person giving cash for these coupons?

MR. PLOTKINS: Yes.

THE CHAIRMAN: Gets his gasoline more cheaply?

MR. PLOTKINS: That is it. Well I will probably clarify that.

MR. FRAWLEY: If Mr. Appleton would just explain one transaction, how it might arise.

Q MR. PLOTKINS: How could that arise?

A How the coupon could be used?

Q Yes.

A Well the farmer would just go into the oil company dealer and say, "I have so many coupons, I want to get rid of them. How much will you give me for them".

MR. FRAWLEY: And what happens in that case,

the oil company, they just take them?

MR. PLOTKINS: The agent, not the oil company.

Q MR. FRAWLEY: I would say the oil company's agent, they do everything through agents?

A It is all through the agent.

Q MR. PLOTKINS: But not to the knowledge of the company?

A Not with the knowledge of the company.

Q What actually happens , how can the agent convert the coupons into cash?

A By turning them in on the account which he sends to the oil company to cover the account which he owes them. It is cash so far as he is concerned for $2.70 each.

Q But he cannot turn them in on an ordinary transaction where he sells gasoline or other products to the farmer because he has already received the coupon from the farmer?

A Yes.

Q Then where he turns them in, is ----

A As you mentioned before he has the sales to dealers, the dealer's coupons.

Q In other words what actually happens he delivers gasoline to a dealer?

A Yes.

Q To a dealer's pump?

A Yes.

Q And that dealer's pump presumably sells the gasoline to the consumer?

A Yes.

Q To the public?

A Yes.

Q But when the storekeeper or the garage man that has purchased this gasoline from the agent of the company --

A Yes.

Q Remits the cash to the agent, the agent is in a position to subtract so much cash and replace it by coupons?

A Yes.

Q That is right?

A Yes.

Q And there is no means at the present time of seriously controlling that?

A No, there is not. There are too many coupons on the market.

Q That is one method?

A Yes.

Q But there are other methods. Now is it feasible, and possible, and not only possible, is it not actually practiced at the present time where in the country town, with one general store that has a pump and purchases gasoline from an agent, the local agent?

A Yes.

Q The Imperial, B. A. or any other?

A Yes.

Q And he wants 200 gallons of gasoline and he pays the dealer the regular local tank wagon price for the 200 gallons of gasoline?

A Yes.

Q But he has in his power with the connivance of the agent, when it comes to the tax to say, "Here is 1 cent and so many coupons"?

A Yes.

Q And in many cases it has been proven he has received cash or

groceries or flour?

A Yes.

Q So in those cases these coupons have been used for cash?

A Yes.

Q Just the same as currency?

A Yes.

Q Because the storekeeper is able to convert them to the equivalent of cash?

A Yes.

Q Now that is another method?

A Yes.

Q Then there is another method possible and actually practiced, the farmer owes the agent a bill for gasoline, including gasoline?

A Yes.

Q And he finds himself short of money?

A Yes.

Q But he has a reserve of coupons and he can go into the agent of the company and say, "Here are so many coupons and that wipes out my bill"?

A Oh, yes.

Q That is possible and that is another method?

A Yes.

Q So there are a number of methods of defrauding the Government?

A Yes.

Q Of the taxes that are rightfully due?

A Yes, through the coupons you mean?

Q Yes, through the coupons?

A Yes.

Q And that has been brought to the attention of the Department

on various occasions?

A Yes.

Q I have brought that quite strictly to their attention at various times?

A As a matter of fact I might say that a number of investigations are going on before the police at the present time into the same thing.

Q Now is not a company agent, as opposed to our company where we operate from a central distributing point, in a much more favorable position, in fact is he not the only one who can do that, I mean the local agent, in connivance with the local garage or in connivance with the local store or in connivance with the farmer, he is the only one who is able to use these coupons in that manner?

A No, you have all these various trucking agents as you call them yourself.

Q Yes, that is right, the dealer and agents can do the same thing?

A Do the same thing.

Q But because they are not established in any central point, would they be quite so likely to do that?

A Well they would have a harder time to get rid of their coupons.

Q They cannot quite as easily traffic in coupons?

A No.

Q Now is there any intention on the part of your Department to remedy that situation?

A Well, I do not know. You see I have just the administration of it.

MR. PLOTKINS: Mr. Frawley tells me that he

wishes to get away at this time.

MR. FRAWLEY: Yes. I will bring Mr. Appleton back but I would like to make an application now that the Commission adjourn until tomorrow morning.

THE CHAIRMAN: Have we work for the full day tomorrow, Mr. Frawley?

MR. FRAWLEY: Yes, Mr. Stansfield is coming down from Edmonton tonight.

THE CHAIRMAN: I ask the question because if it is only a matter of an hour or so it is a shame to bring Counsel here for the whole day, you think it will be the full day?

MR. FRAWLEY: Yes. I will not have the interruptions which I have had today I am quite sure of that.

THE CHAIRMAN: Then we will adjourn until tomorrow morning.

(The Inquiry was here adjourned to be resumed at 10:30 A. M. September 21st, 1939.)

J. J. FRAWLEY

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

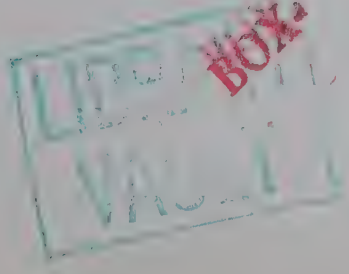
L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta SEPTEMBER 21st, 1939

VOLUME 119

BOX 83



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10:30 A. M. Session.
21st September, 1939.

MR. FRAWLEY: Mr. Appleton was still under cross-examination when we rose last evening by Mr. Plotkins, but Mr. Plotkins phoned me this morning and said he was not interested in any further examination of Mr. Appleton so I am calling Professor Stansfield.

::::::::

EDGAR STANSFIELD, having been first duly affirmed, examined by Mr. Frawley, said:

Q Professor Stansfield, will you just tell us what your present position is?

A I am employed by the Research Council of Alberta in work at the University of Alberta; as the Research Council of Alberta is in, shall we say a moribund state, I am in essence employed by the University of Alberta but the Research Council still does exist and under that I am Chief Chemical Engineer.

Q You are the Chief Chemical Engineer for the Research Council of Alberta?

A Yes.

Q Then are you on the staff of the University?

A Yes, Professor of Industrial Research.

Q Now would you just state for the record what your qualifications are, your academic qualifications, Professor Stansfield?

A I am a graduate of Victoria University at Manchester, England, and hold the M. S. I. Degree, the Master of Science Degree from that University.

Q And what has been your work since graduation from the University?

A I did teaching work for several years. Then afterwards I came out to this country and I was employed as a chemist at the Dominion Iron and Steel Works. I afterwards went to McGill University where I was engaged on an investigation of the coals of Canada for the Dominion of Canada. From there I was transferred to the Department of Mines in Ottawa and I was chief chemical engineer of the Fuel Testing Division of the Department of Mines in Ottawa; in that connection I had to take charge of a considerable quantity of work on oils, oils and gases, as well as coals and other solid fuels.

I was also employed as the chief chemical engineer for the Lignite Utilization Board of Canada; that was at the same time as I was employed by the Department of Mines. The two, I was simply loaned by the Department of Mines for this other position. I then came to Alberta to my present position which I have held since then. That was about 1921, about then that I came to Alberta.

Q Now have you for some time been giving some consideration to the matter of standardization of petroleum products in the Province?

A Yes, I have since 1935 or 1936.

Q And I have asked you to come to this Commission to make a statement of a general nature as to your views on the question of the standardization of petroleum products in

the Province?

A Yes.

Q THE CHAIRMAN: Since 19, when?

A Since 1935 or 1936 I think. No, excuse me, I think I ought, if I may be allowed to change that, I was a member of a committee appointed by the Legislature of Alberta in 1929 and we were asked to consider standards then so I have been really considering it since 1929.

Q MR. FRAWLEY: And you have some views on the advisability or otherwise of the introduction of standards in the petroleum industry in Alberta?

A Certainly.

Q Would you now just make that statement. You have given me a memorandum, Professor Stansfield, which it would be quite all right for you to use as a guide and it may be best to first file Professor Stansfield's memorandum, and I would offer it as an Exhibit.

(MEMORANDUM PRODUCED BY THE WITNESS PROFESSOR STANSFIELD HERE MARKED AS EXHIBIT "603").

THE CHAIRMAN: A memorandum re standardization.

MR. FRAWLEY: It is a memorandum re standards of petroleum products.

Q MR. FRAWLEY: Now Professor Stansfield, you can just take your memorandum and follow it as closely as you like?

A I think probably I will use these words and follow it pretty closely.

Q Very well?

A I suggest to begin with that oils are commodities the quality of which cannot readily be judged by the consumer, so that he is somewhat at the mercy of the vendor. The result is that consumers will tend to buy only from large firms with a high reputation to maintain. Smaller or younger firms selling an equally good product must find it difficult to make this fact known to the consumers, and firms maintaining a high standard may have to meet competition with inferior products.

The maintenance of a uniformly high quality by all producers and wholesalers, however, would not necessarily protect the consumer, as he might be victimized by blending or substitution somewhere along the line of distribution.

The adoption and enforcement of standards would have the advantage that it would compel all producers and vendors to maintain at least the required minimum standard of quality. This would be a protection to the consumer, and producers who regularly maintain a high standard of quality would be protected from unfair competition with producers having lower standards.

It would be impracticable to attempt to give government protection to the consumer and vendor in all cases where the consumer could not himself judge the quality of the commodity he is purchasing. But in the case of fuel oils, where the aggregate sales are large and the consumers form a notable fraction of the total population, there is a

strong argument in favour of the establishment of standards.

Now may I just discuss a little bit the quality of the gasoline as you would consider it in the standard. // The quality of such a fuel oil as gasoline is not capable of absolute standardization; it must be relative. A gasoline must be suited to the engine in which it is to be burned, and it must be suited to the season. A good gasoline for one car or at one time of the year might be impossible for another car or in another season. A gasoline should permit ready starting of the engine and smooth acceleration, and should not cause knocking in the engine; it should burn completely and not leave an unburned portion to dilute the lubricating oil in the crank case; and it should not cause vapour lock in the feed line. A gasoline should not contain corrosive constituents as received nor form excessive corrosive products when burned; moreover it should not contain gum, either when fresh or after storage, as gum tends to choke the carburettor. A gasoline for use in winter should not congeal at any temperature to which it is likely to be exposed during use. Finally a gasoline should not be so volatile that its transportation and handling involve undue hazard of explosion and fire. A similar qualification applies to kerosenes for use in wick type lamps.

I just mention that as another example of where precautions, standards have

a precautionary value.

The adoption of standards might do more harm that good. If the standards are unduly stringent the cost of production may be increased without comparable increased value to the consumer. In any case, all producers would naturally tend to supply merely the required minimum standard of quality. This might result in a distinct drop in average quality sold, particularly if the standards were made too lenient in the effort to avoid increased cost of production. Furthermore care would have to be taken to provide for periodic reconsideration and necessary modification of standards to prevent them becoming a drag on improvements to be expected in engines and oils.

I might say that there has been a gradual evolution in the quality of gasolines, and particularly probably in the quality of the engines made or the motor car industry and the gasolines required for them and if standards are introduced and left at a fixed status they might be a drag on the natural evolution of the petroleum industry or the supplying of the products to the consumer.

I then sum up the pros and cons of standards. If the petroleum industry is suffering from unfair competition, and if the consumer is suffering from producers who let the quality of their products fall below the reasonable expectation of quality for the grade, then the establishment and enforcement of carefully prepared specifications would

be an undoubted advantage. If on the other hand the main trouble is that of fraudulent blending and substitution then this difficulty might be overcome by suitable regulations and the cost, trouble, and possible drag of standards could be avoided.

I am suggesting that as a basis. Those are points that I do not think I should be expected to give expert opinions on but I am suggesting the pros and cons, the conditions under which I think standards should or should not be applied.

Standards would be worse than useless unless enforced; consideration should therefore be given to the procedure to be followed, and probable cost. In 1936 two different departments in Ottawa reported their charges for complete tests of gasoline were as $10 and $25 respectively, with reductions for several samples. The price of $25 is probably reasonable for a single sample where the chemist is not normally employed in this work; but it is doubtful whether a complete test could be made, even under advantageous conditions of steady work on gasoline, for a cost of much less than $10 per sample. It can be seen that an inspection and sampling programme, extensive enough to make every vendor in the province realise that he was liable to be inspected at any time, would be of prohibitive cost. One difficult question has been asked in this connection - If a substandard gasoline were found in a retail vendor's pump, who is to be held responsible, the producer or the vendor? It can be confidently anticipated

that each will blame the other.

I do not need to suggest that it would not be possible to cut down the testing of samples to an abreviated sample and to get indications in that way of an inferior product and then if it showed an indication of being an inferior product you could then have a complete test, but I am suggesting that the $10 would be a fair average cost.

Q MAJOR LIPSETT: That you think would be a fair cost for the test required to take a sample and to see that that sample was correct?

A I am just suggesting that and also possibly we could make some slight economies by leaving it to the discretion of the party making the test. If his first test satisfied him and he decided that the sample was up to grade, he would not complete all the tests but if he was at all suspicious he should then make a complete test and I consider that $10 would not be too much. I am suggesting that and I feel very strongly myself on the advisability of it.

One possible solution of this difficulty would be the enforcement of the use of sealed tanks. The tanks would have to be so sealed that gasoline could not be introduced without the seal being broken. A truck driver employed by any producer or wholesaler to distribute gasoline, to pumps carrying his brand names in the retail filling stations, would be required to inspect the tank on arrival at the station and to note the number of the seal. He would then break the seal, refill the tank, reseal and record

the number of the new seal attached. This would make it possible to hold the producer, or distributor, responsible for substandard quality, and would reduce to a practicable scale the number of inspections to be made and samples collected. Such a sealed tank arrangement would give the consumer protection against fraudulent blending or substitution. Occasional inspection would of course be required to insure against devices whereby the tank could be refilled without breaking the seal, but such inspections would not necessitate the taking of samples for analysis.

I am now going to discuss very briefly the question of standards as implied in Canada. The Canadian Government Purchasing Standards Committee, a committee working in co-operation with the National Research Council, had, up to July 19th, 1939, issued five standard specifications for gasoline and other fuel oils. Those are the gasolines and other fuel oils to be purchased by the Dominion Government. This body issues new and revised specifications at frequent intervals. I just mention that to suggest these five will probably be increased shortly or increased at intervals.

The National Research Council, after consultation with the petroleum industry and other interested parties, that was in 1935 and 1936 I believe, has prepared specifications for gasoline as a guide for any province that wishes to adopt such specifications; and some provinces have made use of them.

I believe that Nova Scotia, Quebec and Saskatchewan, I believe they have made use of those and there may be others that I have not learned about. These specifications vary in type from the gasoline specifications of the Purchasing Committee but their form appears to be much preferred by the petroleum industry.

It might be anticipated that any standards adopted in Alberta would follow the main lines of those of the National Research Council; with minor adjustments to take care of local conditions in Alberta. Such modified standards were drafted late in 1936 and referred to a considerable number of interested parties and received fairly general approval; but no further action was then taken. At that date this Province did not possess the necessary machine for determining the octane rating of gasoline - an important factor in standardization. This machine has now been purchased and is at present being installed in the University at Edmonton. If standards are established all necessary or advisory tests can be made, with the instruments installed at the University.

Work on fuel oils is being done for, and under the control of, the Provincial Department of Trade and Industry in the laboratories of the Research Council of Alberta at the University of Alberta.

Q MR. FRAWLEY: Now Professor Stansfield, there are one or two questions, you speak there of the setting up of standards at filling stations. I think

perhaps that expression appeared once or twice in your memorandum. As you know there is a great part of the gallonage sold in Alberta sold at wholesale or in bulk, as we say, to the farmer consumer?

A Yes.

Q And so you say, do you contemplate in any recommendations which you have made to the Alberta Government or in the work you are doing, do you contemplate that this standardization will extend to the sale of gasoline in bulk at wholesale points?

A I think so, certainly.. That would be my impression.

Q You see no reason at all why it should not extend to that?

A No.

Q Then just complimentary to that, do you also see any reason at all why the standardization cannot extend to the whole range of petroleum products beginning with the best gasoline and extending down to the cheap farm fuel?

A That is done in Saskatchewan, and I think, I would expect the same procedure to be followed here.

Q All right?

A Mr. Frawley, there is the letter from Dr. Parkin.

Q You have something further you would like to put into the record?

A I have here a letter from Dr. Parkin.

Q Who is Dr. Parkin?

A He is the officer in charge of work on petroleum of the National Research Council in Ottawa?

Q It is a letter?

A It is a letter addressed to G. A. Thibault, Secretary,

Board of Public Utility Commissioners at Edmonton and it is dated November 19th, 1936. I will just read quotations from it. It is headed "Re: Fuel Oil Licensing Act. I have your letter of November 10----

THE CHAIRMAN: Just excuse me, are you offering the letter?

MR. FRAWLEY: Yes, I am quite content that it should be put in and I think it should be, the whole of it should be before the Commission.

THE CHAIRMAN: Yes.

MR. FRAWLEY: Then I will offer this letter to be marked as the next Exhibit.

(LETTER PRODUCED BY THE WITNESS PROFRESSOR STANSFILLD HERE MARKED AS EXHIBIT "604")

Q MR. FRAWLEY: Yes, and once the letter is in it had better all be read?

A You mean to read everything?

Q Yes, the whole letter and you can comment on any particular part you are interested in?

A I might just explain, I mentioned that some draft specifications were prepared in 1936 and submitted to interested parties for comment. There were a number of representatives of the petroleum industry and the producers and the motor car industry and the general public interested.

Q Just let me add one thing, I notice the letter is addressed to Mr. Thibault as Secretary of the Board of Public Utility Commissioners of Alberta, is it not so that at that time the administration of the Fuel Oil Licensing Act under which standardization would come, was at that time under

the control of the Board of Public Utility Commissioners?

A That is my understanding and is at present under the Department of Trade and Industry.

Q Yes.

A "Dear Sir: Re: Fuel Oil Licensing Act

"I have your letter of November 10, re-
"questing comments on four suggested specifications
"for gasoline drafted by the Research Council of
"Alberta.

"As you infer, the National Research
"Council is much interested in the question of
"Gasoline grading and standardization. The
"question has been studied by the Council during
"the past few years and specifications have been
"drafted. We are therefore happy to co-operate
"with your Board and submit the following comments:

"The two specifications prepared in
"Ottawa, namely NRC-8,

that I referred to in my previous evidence as the National Research Council's specifications and 3-GP-1, that was the Government Purchasing Commission's specifications,

"Cover gasolines of essentially the same qualities
"but differ in the system of grading employed. That
"employed in 3 GP-1 is, in our opinion, more flex-
"ible, in that it affords the purchaser a greater
"range of choice and is more comprehensive. On the
"other hand, certain of the Eastern Provinces ob-
"jected to the greater number of grades provided
"and to the greater complexity of nomenclature of

"the grades. It was due to these latter objections "that our original method of designation was "changed to that of NRC-8. Later, for government "purchasing purposes, our original method was "adopted in 3 GP-1.

" It is judged, from information con- "cerning gasolines on the market in Western Canada "supplied to us, or obtained from the tests of "samples collected for the Council in the West, "that western gasolines comply with the Council "specifications in all respects except vapor pres- "sure and sulphur.

" None of the samples tested in the "laboratories here - some 30 of summer grade - "failed to meet the vapor pressure requirement and "only a very few of those, concerning which in- "formation was supplied to us, failed to comply. "It is considered therefore that the vapor pressure "requirements of the Council specifications, adopted "in proposed specifications B and D, are satisfactory."

I see he refers to "A", "B", "C" and "D" and I might state that "A" was the National Research Council's specification and "B" was a modification of it which I had proposed to meet Alberta conditions; "C" was the Government Purchasing Commission's specifications and "D" was a similar modification which I had suggested to suit Alberta conditions so "B" and "D" are both modifications, "B" is of the National Research specifications "D" is of the Government Purchasing Commission's specifications, so that the"proposed spec-

ifications "B" and "D" are satisfactory", those are the ones which were suggested to be modified to meet Alberta Conditions.

" Quite a number of the samples, on "which information was furnished us, failed to meet "the sulphur requirement of the Council specifi- "cation . Of the 30 samples tested here, of which "unfortunately only 3 were non-ethyl, 7 exceeded the "allowable sulphur, the maximum being .106 and these "7 included the 3 non-ethyl samples. This was to "be expected since it is understood that the Ethyl "gasoline is held to a rigid limitation on sulphur.

" The 0.10% maximum limit for total "sulphur is quite generally used. While the need "for so low a limit is questioned by some, reliable "information which would indicate a safe maximum is "lacking. As no hardship was imposed on the industry "in the East by the 0.10% limit, this requirement was "retained in our specification, pending the securing "of further reliable information. At the same time, "it was fully realized that some adjustment of this "requirement would be required, in all probability, "to meet conditions in the West. It was planned to "hold a conference in the West to thoroughly discuss "the Council specifications before recommending "their adoption as a national standard.

" It is considered that the modifica- "tion in the sulphur requirement, proposed in the "suggested specifications B and D, permitting a

"0.15% limit in the lower summer grades, is a "reasonable and satisfactory solution to meet con- "ditions in the West, in the light of our "present knowledge.

" It is noted that in specification B "the minimum octane number for grade 2 gasoline is "raised from 66 to 68. This increase is considered "inadvisable."

If I might just interpolate there, I believe that was probably a misprint and not a deliberate change. I do not remember trying to make any change on that point. I forgot to look that point up but I believe it was just a misprint.

"This increase is considered inadvisable. It is "understood that the refiner is not permitted, by "the terms of his agreement with the Ethyl Gasoline "Corporation, to exceed an octane number of 70 on "the second or so-called Q grade gasoline. He will "thus be required to produce his gasoline with an "octane number between 68 and 70. This narrow "range will impose a serious handicap on the re- "finer in the production of the grade of gasoline "of which most is sold. It is considered probable "that the upper limit on second grade fuel will "be raised by the Corporation to possibly 72 octane "in the naar future. Until this is done, it is con- "sidered desirable that the limit should be re- "tained at 66 octane for grade 2."

E. Stansfield

A major innovation in the suggested specifications B and D is the presenting of minimum as well as maximum temperatures for the 10% point in the distillation test. This has presumably been done to take care of a condition in connection with certain gasolines on the market in the West. In principle, the placing of a minimum limit is perhaps sound. What the attitude of the refiners will be on the proposal is unknown. However, from the standpoint of the situation in the East the specified minimum temperatures are too high.

10% point temperatures on gasolines on the market in Ontario range as low as 102 degrees F. on samples collected in May, i.e., winter grade, and for one of the best known ethyl gasolines on the market, the temperature was 196 degrees F. in May. To meet conditions in the East, it is therefore considered that the minimum 10% point temperatures should be as follows:- . Shall I read that?

MR. FRAWLEY: I think so. Put it all in.

" Specification B Specification D

Grade	1	2	3	4	1	2
Summer	120	120	115	105:	120	115
Winter	105	105	100	100:	105	110

Those are all degrees F.

"The advantages to the public,"- these are really the paragraphs I wish to call to the attention of the Commission - " The advantages to the public, industry and authorities of national standards render it highly

"desirable that, if at all possible, there should be set up a single Dominiom-wide specification for motor gasoline. This was, in fact, the ultimate aim of the of the Council in preparing its standards. While, due largely to force of circumstances, a start had to be made in the East, the Council has always contemplated making an investigation of the situation in the West and the possible revision of its standards to meet western conditions, thereby making the standards applicable to all parts of the country. The investigation being carried on by the Research Council of Alberta would seem to render unnecessary any further study by the National Research Council and we have to consider now what modifications should be made in our specifications to meet the Western conditions.

" While, of course, I am unable to commit the Council in any way, my personal opinion, in line with the foregoing comments, is that our specifications might be altered in the sulphur requirement and, if no serious opposition is offered by the refiners to the establishing of a lower limit on the 10% point temperature, a minimum 10% point temperature, as tabulated above, might be included in our specification. If these alterations were agreed to by the Council, our specifications would presumably meet your requirements. I shall bring these suggestions to the attention of the President of the National Research Council.

" As between our two specifications NRC-8 and 3 GP-1, my own personal preference is for 3GP-1 because of its greater range and flexibility. However, as already indicated, the refiners and provincial authorities seem

" to prefer the simplicity of NRC-8.

There is one important suggestion which I should like to offer. If legislation is contemplated in this connection, the technical specifications should not be incorporated in the legislation. If vapor pressures, octane numbers, etc., are specified in an Act, it is difficult to change them, as is most necessary with changing conditions and improvements in the art."

That is the point I stress in my own evidence.

" I trust that the foregoing rather lengthy comments may be of value to your Board, and venture to hope that, through co-operation, a single national standard for gasoline may result.

Yours very truly,

J. H. Parkin
Officer in Charge. "

Q Mr. Stansfield, particularly dealing with those parts you have called special attention to, do you adopt the views of Dr. Parkin, the views and comments he has made there. Are you in accord with those?

A I would not like to discuss these temperatures actually at the present time without going into them much more carefully. But the general comments I agree with.

Q I was thinking of the value of the document to the Commission. Dr. Parkin is not here but if you are in accord with the views he expresses?

A Yes Sir.

Q With such exceptions as you care to make then the document will be of more value to the Commission?

A Yes I endorse it.

THE CHAIRMAN: Mr. Frawley, the Commission are getting no copies of these things that are coming up.

MR. FRAWLEY: As to this, particularly this last document it is a letter which Mr. Stansfield picked from his file and brought down with him last night.

THE CHAIRMAN: Yes. But it is convenient for us to have copies. We have a copy of Exhibit 600 but we have not the memoranda that goes with it.

MR. FRAWLEY: There is some confusion there and I will straighten that out. There was something filed I am sure, the complete thing filed.

THE CHAIRMAN: I am sorry to interrupt.

MR. FRAWLEY: That is all I have to ask.

MR. NOLAN May I ask Professor Stansfield a few questions? This letter to which you have just made reference is dated the 19th of November 1936?

A Yes.

Q What has been happening since then? That is three years ago.

A I think as Mr. Frawley pointed out the question of gasoline standards at that time was under the control of the Public Utilities Commission . It was transferred to the Dept. of Trade and Industry and I think the Dept. of Trade and Industry was not conversant with the situation at the time and had not developed an interest in it and the matter was allowed to lapse for the time being. The Dept. of Trade and Industry is now taking a keen interest in these things and the matter is being taken up again.

Q It is being taken up now?

A It is being taken up now.

Q Tell me this, is it possible to have a specification that is good for all of Canada, a National specification?

A I think probably it could be made wide enough. As you have already heard I did not wish to accept the National Research Council's specification as available at that time without modification to suit Alberta conditions.

Q As I understand you there would have to be some modification?

A There ought to be some modification and I would suggest it.

Q Having regard to the particular conditions existing in the particular Province?

A Yes, but as I pointed out in Dr. Parkin's letter he was apparently quite willing to ask the National Research Council to change it or make modifications to suit Alberta conditions. He made the statement he would recommend that to the Director.

MR. FRAWLEY: And ours would become the National specification?

A They would modify theirs to make it suitable also to Western conditions.

MR. NOLAN: Saskatchewan have got specifications ations and standards haven't they?

A Yes.

Q How did they arrive at their standardization, from the Research Council?

A They based theirs on the National Research Council.

Q Modified to apply to their own conditions, I take it?

A I take it yes.

Q Would there be any difficulty about Alberta doing the same thing?

A Modifying them to suit, no.

Q When did Saskatchewan do that. That was after 1936 wasn't it?

A Yes.

Q Because that is when they were drafted by the National Research Council?

A Yes.

Q The date perhaps is of no importance. They have had it in Saskatchewan for a year or two have they?

A I am sorry I seem to have mislaid that at the moment. It is probably unimportant. I think it has been in force for a couple of years.

Q What are we doing in Alberta now? The Department of Trade and Industry is taking it up?

A Yes.

Q Because we have had it under consideration for ten years haven't we, on and off?

MR. FRAWLEY: Yes but I think it would be useful to have Dr. Stansfield say what they are doing now particularly.

MR. NOLAN: There has been a survival of interest in it locally within what, the last few months?

A Six months.

Q What are we doing?

A At the present time we are installing an octane rating machine to make tests. We just got that recently. It has just been purchased and is being erected on its foundation today in the University. Up to the present we have not had an engine able to make that test and

when we did the work in 1935 - no in 1935 we did not do any octane rating tests. In 1936 we did some more work and then we sent our samples down to Kansas City to be tested. That was a very unsatisfactory way of having tests made.

Q That was to find the octane number?

A That was to find the octane number. All the other tests were made in Edmonton. But to make the octane number test it was sent down to Kansas City.

Q Are we to expect standardization, Professor Stansfield, in the near future?

A I would suggest that was a matter for discussion between the Department and the industry.

Q You can tell me what is going on at the present time?

MR. FRAWLEY: He is preparing the way.

MR. NOLAN: You are preparing the way?

A Preparing the way. I can perhaps tell you what my recommendation would be. In 1936 when this matter came up again we made a survey of all the gasolines we could obtain in Edmonton. It was summer gasolines in that case. We made an analysis of them and the test for the octane rating as I said was done in Kansas City. On the basis of that we considered whether the National Research Council specifications would suit Alberta conditions. We found quite a number of samples would not pass these specifications. We felt it was probably inadvisable to leave the specifications under those conditions. We made four possible drafts of specifications and submitted them to a large number of interested parties and the comments were received, as a whole all favoring - with very few exceptions favoring the

specification referred to as B in Dr. Parkin's letter. At that time I thought that the specifications were likely to be introduced. Now then when the question came up again recently and I was consulted I took the attitude that I would not like to recommend specifications in 1939 as a result of tests made in 1936 and I felt that tests, a much more comprehensive series of tests should be made now before anything was done.

Q Is that being done?

A That will be started as soon as that machine is available. That is my idea of the situation. I further recommend that if we find as we begin these tests that there is anything drastically wrong with a lot of the samples being done that a conference should be held or some steps should be taken to put standardization into effect at once. If we find that the consumer is not being seriously victimized at the present time then we should go a little more slowly. There is no necessity for haste. We should go a little more slowly about it and take time to consult again with the interested parties and take care that the specifications if adopted that they shall be as satisfactory as it is possible to make them to all parties.

Q That is what I wanted to ask you. Before they are finally brought into operation or adoption it will be after discussion with the Industry will it not?

A I should expect so. I would prefer that certainly myself and my personal recommendation would be to that effect.

Q You have always discussed it before with the Industry?

A Yes, and I do not see why it should not be done in the future.

E. Stansfield

MR. FRAWLEY: That certainly was the procedure adopted in 1936 even though the specifications were not immediately put into effect?

A Yes.

Q And many opportunities were given to all branches of the Industry to say what they had to say about the draft of specifications?

A Yes.

THE CHAIRMAN: I see you have offered argument pro and con for the introduction of standardization and against it. What is your personal opinion? Should or should not there be standardization in the Province of Alberta?

A I think my opinion goes back to my last statement there. If the consumer is being victimized at the present time there should be standardization. If he is being victimized by an inferior product from the producer. But if it is merely - and this is a question where the Industry can answer it better than I can - if it is merely a question of blending and substitution somewhere along the line of distribution I think the system of sealed gas tanks would be a simple way of handling the situation and might meet the difficulties.

MR. NOLAN: May I interrupt to ask Professor Stansfield if that sealed gas tank idea has been used elsewhere because I have not heard of it before?

A I have been told it has been used in Montreal and is being today.

Q Is it used in the States?

A I cannot tell you.

MR. COMMISSIONER LIPSETT: Have there been some submissions to you or to the people who have been connected with you that there is substitution of gasoline being generally --

A From personal conversations.

Q Between the Refinery and the general public?

A From conversations yes.

Q On a large scale? Is your impression it is on a large scale or just isolated?

A Probably isolated instances. That is a point of course I am not in a position to state. That is just my own personal opinion.

Q That would be something against the wishes of the Refiners.

A Surely.

Q And outside of their control?

A Outside of their control. My personal feeling is it is to the advantage of the Refiners and I think would meet with their approval to put in sealed tanks. That would be my opinion.

THE CHAIRMAN: Professor Stansfield, quite aside from fraud and people being victimized and all the rest do you see no advantage in the public knowing exactly what they are buying?

A Yes I do.

Q Supposing there is no blending and supposing I am buying an inferior grade of gasoline and paying the top price. There is no blending at all. No change from the time it leaves the refinery. Why should not I know what I am buying?

A I think there is quite an advantage in that. The only difficulty comes if it is possible that the standards are going to end up by being a drag on the evolution and we are better without them. My personal opinion is in favor of standards.

Q I wanted to examine into that too. You speak about it being a drag on the Industry. So long as you are setting minimums how can it be a drag? A person who wants to make a much better gasoline and advertise it as such if so much beyond a particular standard or over a particular grade, they are at liberty to do so. You are not proposing a maximum in your standards?

A No there is no maximum.

Q Wherein would it be a drag? I can quite see the point

A of expense to the Government but we will come to that. But at the moment wherein does it prevent refiners who have made such wonderful strides in refining processes continuing to improve?

A My feeling would be that as a matter of competition if there are three grades that the public would get into the habit of buying number one grade and number two grade and number three grade and would only want to pay the price for that grade and the natural tendency for the producers would be to make for each grade something just a little bit above the minimum. They would not be apt to get paid if they went considerably above the minimum. Therefore they would tend not to do it. But I think if as I suggest care was taken to leave it that these standards could be changed shall I say once a year or something of that sort the Industry would

themselves recommend if there was a change that the standards should be raised. That would be a reasonable expectation from year to year. The standards might be raised and the standards therefore would not be a drag on the natural evolution. That of course was Dr. Parkin's point that the regulations for the standards, the actual details for the requirements should be put in the form of regulations and not included in the Act. That is the system adopted in Saskatchewan for example.

Q To provide for elasticity ?

A To provide for elasticity.

Q I suppose there would be no difficulty if you feared you were getting - that the Refiners were putting out the minimum every time there would be no difficulty presented if there should be a proper demand for it making still a higher grade than anything already introduced, adding another grade in short?

A Well I doubt if that would be advisable and I do not think it would be necessary.

Q I was thinking that certain Refineries might come up to a certain standard and other Refineries might have - I speak without knowledge now of refining - they might have machinery that would only permit of the manufacturing of gasoline of a certain kind. To change the standard every year by regulation might have the effect of requiring people to make tremendous capital expenditures. That of course you would take into consideration in making any changes?

A Yes. My anticipation would be that the changes would be most likely asked for and come from the Industry themselves.

Q If you are going to go in for standardization I think you might as well make up your mind that the Industry probably will not be unanimous in their views and recommendations. Conflicting interests will have play. Conflicting viewpoints will be brought to your notice. However I observe you have spoken of gasoline. What about the protection to the farmer? Take the man with the Diesel engine and he is unknowingly buying something that will ruin it. Should he not be protected as much as the motorist?

A Yes Sir.

Q Your views with regard to standardization apply equally to farm tractors as they do to consumption by motor car owners?

A Yes. As far as I am aware the National Research Council specifications do not go up to tractor fuel. The Canadian Purchasing Commission included Diesel Fuels and Tractor Distillates and Aviation Fuels and other products.

Q In any event in the Province of Alberta you think that such protection as standardization provides should be afforded to the farmer quite as much as to the ordinary motorist?

A Yes. I think he is a big consumer.

Q There is no practical difficulty in setting up standards for farm products I take it?

A Not to protect him against something that would do damage to his engine. But we have not available the necessary equipment for testing Diesel fuel equivalent to the Octane rating. I do not think that would be necessary to insist on that for the time being. It may be advisable in the future, sometime or other. But we can

make all the tests to see he was not going to get anything to damage his engine or anything of that sort.

Q You cannot give him the same measure of protection that you give the ordinary motorist?

A Not quite. One item would be the octane.

Q What would it involve in expense to put yourself in a position to do so?

A $500 or $800 something like that.

Q That might not be such a tremendous expense if it helped all the farmers in Alberta.

A No it would not be very big. I might just explain at this point, Sir, we are facing at the present time if this work is going to go on for gasoline there is a very big program of work ahead involved in the gasoline to start with and I did not see any point in facing our wider issue before we could take charge of it.

Q In the net result, again leaving aside cost for the moment?

A Yes.

Q In the net result you are in favor of the adoption of standards of all refined products in Alberta?

A Yes, in my understanding of the Industry, as I suggested it, I would say yes.

Q Secondly you think that those standards should be set up after consultation with the Industry.

A Certainly.

Q And getting the benefit of their views?

A

A Surely.

Q And a consideration by the Industry of how practicable your views are in the light of their operations.

A Surely.

E. Stansfield

Q You anticipate no difficulty in that being worked out with the Industry?

A I do not think so. As you said yourself, Sir, there are conflicting interests so that we would have to make a compromise?

Q Yes Now coming to the cost involved in making inspections which would be necessary of course to know that your scheme was being carried out, do you know anything about the experience in Quebec where sealed tanks have been used.

A No I have no information.

Q Do you know how long they have been used, and if they are still in use?

A I cannot tell you. I am not even aware that sealed tanks are required by the Province. I believe it is introduced by some of the wholesalers, some of the distributors. That is my impression but I have no definite information on that point.

Q Do you know anything of the experience in Saskatchewan?

A No I do not.

Q As to whether or not it has worked out well?

A No I have no information that they are using sealed tanks at all.

Q Well Quebec is the only place you have heard of in connection with sealed tanks?

A Montreal was the place I had heard of, specifically yes.

Q You do not know whether it has been found practicable or not?

A No.

Q At any rate you can think of no objection?

A I see no objection to it at all.

Q Using seals in that way?

A No Sir.

Q Have you made an estimate at all of the inspection costs? I suppose that is a matter of detection rather than the work of a Chemical Engineer?

A Surely.

Q It would not be so much the number of tests made as the surprise of the tests?

A No Sir.

THE CHAIRMAN: Well Mr. Frawley do you suppose you have anybody in the Industry here or out of the Industry, who has some knowledge of the experience in other Provinces or places where standardization has been set up; if it be found a total failure or too expensive to be practicable or something. We should be alive to that. On the other hand I would think it would work good. It is tried out at our door for a period of years and if we are considering the subject at all in Alberta as apparently the Provincial Secretarys Department is one would think they would be interested in knowing the experience of the neighboring Province for example.

MR. FRAWLEY: We are not timid in this Province and if nobody else had any experience I do not think we should wait.

THE CHAIRMAN: It would be helpful to know what they think about it, those who have used it. I was thinking we could avoid bringing someone from Saskatchewan. I would think someone in Alberta or Calgary would know.

E. Stansfield

MR. FRAWLEY: These people who make the gasoline. Mr. Berringer the refiner for the British American is here and his gasoline goes into Saskatchewan. If there are standards in Saskatchewan Mr. Berringer must know all about them because he in Calgary must meet those specifications. There would be some gasoline in the Eastern part of Saskatchewan supplied by the Calgary refinery. Similarly Mr. Nolan. I did not think that standards were thorough-goingly in effect in any Province in Canada. That is just my lack of information. I knew Saskatchewan had something which said that you could not use a red color in gasoline unless it was Ethyl or something of that sort . On the other hand there might be a complete range of specifications. I find it is interesting enough in the price fixing regulations of British Columbia about which we have heard so much and which are presently the subject of litigation - that they contain a schedule or a complete list of specifications. There it is. I intended to ask Mr. Stansfield to look at it just to see what he thought about it. Then again this order as I understand it is the subject of an injunction now, continued by the consent of the Government. It certainly is not functioning unless the standards schedule is functioning separately from the price fixing schedule.

Professor Stansfield

THE CHAIRMAN: When they do price fixing, they set up standards?

MR. FRAWLEY: This regulation No. 10, which I will be glad to file is a regulation which establishes gasoline standards and grades. The regulation is called, "Regulation 10" establishing gasoline prices and grades and requiring grade posting.

THE CHAIRMAN: If Professor Stansfield is going to discuss it we should mark it.

MR. FRAWLEY: Yes, we might put it in and Mr. Stansfield might, after he has had a chance to study it to his own satisfaction, might like to make some comments on it.

THE CHAIRMAN: Yes, he can step down.

(REGULATION NO. 10 OF THE PROVINCE OF BRITISH COLUMBIA: PETROLEUM CONTROL BOARD FOR THE ESTABLISHING OF GASOLINE PRICES AND GRADES AND REQUIRING GRADE POSTING PRODUCED AND MARKED EXHIBIT "605".)

MR. FRAWLEY: Now here is the Saskatchewan one and we may as well file it also, Mr. Chairman.

THE CHAIRMAN: Yes.

(DOCUMENT ENTITLED THE FUEL PETROLEUM PRODUCTS ACT, 1938, AND RULES AND REGULATIONS RELATING THERETO, ISSUED BY THE PROVINCIAL TAX COMMISSION OF THE PROVINCE OF SASKATCHEWAN PRODUCED AND MARKED EXHIBIT "606

THE CHAIRMAN: Mr. Nolan and Mr. Harvey, you perhaps can help us with regard to the position in Saskatchewan and to the extent that you can we would be glad that you would do so, what is happening there in fact and how they go about it and how they make the inspection and what the experiences

have been from the standpoint of the industry at least.

MR. HARVEY: I am sure Mr. Miller, who I think will be present again on Monday, I think he will be in a position to give a great deal of information as to what is happening throughout Canada in that respect. For the moment I just asked Mr. Berringer for his knowledge as to the regulations in Saskatchewan and he says his knowledge is nil.

MAJOR LIPSETT: Was there not some expression of opinion on the question of standardization by your witnesses?

MR. HARVEY: Yes, there was an expression of opinion.

MR. FRAWLEY: This is the first time I have seen this document, it is a pamphlet containing the Fuel Petroleum Products Act, 1938 and rules and regulations relating thereto. This is the Province of Saskatchewan. The pamphlet is dated January 1st, 1939 and I find among the regulations this one, No. 20 ---

THE CHAIRMAN: That is in Exhibit "606"?

MR. FRAWLEY: Yes, Exhibit "606".

> "20. The Fuel Petroleum Products mentioned in Schedule "B" to these regulations shall be of the specifications more particularly set out in said Schedule "B"."

And Schedule "B" starts off and recites Fuel Specifications for Gasoline, for Kerosene, for Tractor Distillate, for Diesel Fuel Oil, for those.

Q MR. FRAWLEY: To what extent those are now in every way the law of the Province of Saskatchewan is something else but I daresay that those specifications are the minimum specifications for fuel to be sold in Saskatchewan at the present time?

A Yes.

Q You have studied them, Professor Stansfield, do they, are they satisfactory?

A In a few points, we would like them changed for Alberta.

Q Just in a few points?

A Yes.

Q But generally speaking?

A Generally speaking they are following, the gasoline tests generally speaking are those of the National Research Council. The kerosene and tractor distillates, I am not quite sure, I have not checked those. They do not fit in very well with the samples we were receiving here, there seemed to be some things that would not conform to the products in this Province in any event.

Q We might give you an opportunity to look up what they have done in British Columbia, to gauge them in comparison with the Saskatchewan ones or the National Research Council or the Dominion Government Purchasing Committee and perhaps make a comment about those after lunch?

A I might just say that there are very brief specifications for British Columbia, very brief indeed, and generally speaking I think they follow the National Research Council, only they have raised the percentage of sulphur from 0.1 to 0.25 and I think that is rather a high increase to be allowed and I think there would be considerable objection to that.

THE CHAIRMAN: I take it, Mr. Frawley, the witness in any event is not prepared to lay down a formula. While he would like to have adequate protection, ----

MR. FRAWLEY: Oh, no.

THE CHAIRMAN: He simply is giving his blessing to the idea of standardization.

MR. FRAWLEY: Yes.

Q THE CHAIRMAN: While he says there are some objections to it, as I understand you in the main you are of the opinion that they should be put into effect, some standards?

A Yes.

Q Some minimum standards?

A Yes.

Q And it is hoped to have the co-operation of the industry?

A Yes.

Q MR. FRAWLEY: So that the Commission will know a little more exactly what you are doing, I may be misinformed, but I understand at the moment you are under, not instructions, but you have accepted an invitation perhaps from the Department of Trade and Industry to undertake the submission of, drafting specifications, am I right in that?

A Yes, the Department of Trade and Industry has provided the funds with which we purchased this Octane rating machine and is providing the salary of a man who works on my staff solely on petroleum products.

Q That is what I want the Commission to know, so that there is no question of them being put into force in say the next day or so?

A No.

Q But at the moment you have begun an analysis of the products?

A Yes.

Q All with a view to making a submission something like you made in 1936?

A Yes.

Q To the proper provincial authorities, ultimately with a view

of having them considered and put into force or rejected as the case may be?

A Yes.

Q And you think enough of the merits of standardization that you have permitted the money to be spent and the work to be undertaken?

A Yes.

THE CHAIRMAN: Whatever may be said as to the detail of it, as I understand the witness, he commits himself to the principle of standardization.

MR. FRAWLEY: That is the point exactly.

WITNESS: Yes.

Q MR. FRAWLEY: No doubt about that?

A No.

THE CHAIRMAN: Mr. Frawley, if I may interrupt you, it is quite clear that hearing this witness, if it has accomplished nothing else, it has established this, that some form of standardization can be made for the farmer as well as others.

MR. FRAWLEY: Yes. It is not, as I understand, that you do not contemplate, the work you are doing does not ignore the farmer?

A No.

Q You say there is just one item that is not as complete as it might otherwise be and that may be made complete for a further expenditure of seven or eight hundred dollars?

A I might just supplement what I said there, my recollection is that the Saskatchewan regulations, which include tractor distillates, which includes diesel fuels, do not specify anything along the lines of this extra test for which we

are not equipped, so we can go as far as Saskatchewan has gone at the present time.

Q THE CHAIRMAN: But to go the length you think you should go, to give proper service in the way of standardization ----

A To give the service as complete as I would like to see it.

Q You would then need a further expenditure?

A Yes.

Q MR. FRAWLEY: Does standardization do this to the industry, as you know there are big companies and little companies, refining and wholesaling petroleum products in Alberta?

A Yes.

Q There are big companies and little companies?

A Yes.

Q Rich companies and companies in more moderate circumstances?

A Yes.

Q Now if you issued certain minimum specifications for gasoline it would be possible, as I understand, for the motorist who purchases it to go equally well to the small company direct, to buy the small company's products as well as the large company's products?

A That should be provided. That should be taken care of by the standards.

Q And if there is feeling in the mind of the motorist that he is not going to take a chance on the small man whose equipment he knows is not as elaborate as the large company's, if he is seeking safety in the assurance of minimum standards, then he can go equally well to the small company as to the large one?

A Yes, if standards are in force and enforced.

Professor Stansfield

Q Yes, enforced, assuming that. Now as to the maximum standards, you do not feel there will be any or do you feel that there will be any tendency on the part of the companies who at the moment are striving to make better products, I mean than the others, that there will be any lessening of that tendency?

A I think that is a question to ask the industry.

Q Do you think the standards of themselves would make them indifferent to selling quality products?

A No, I do not think that at all. I suggest there is the possibility but I do not think it is necessary at all.

Q We did have some of the witnesses who came, Professor Brown from the University of Michigan, a very learned man and others, and Dr. Frey too from Washington, who spoke of an Octane race, the gasoline companies were engaged in an octane race and we do hear over the air and in the newspapers and on the billboards of octane being burned into the minds of the motoring public and we have had it stated here that some of the companies do put out a product, this is in the Ethyl No. 1 class, of a much higher octane class than its competitors, at the moment anyway, now would, standards would not affect that, would not cause that company to abandon its campaign and its desire to put a higher octane product in the hands of the people, would it?

A I think that any company could put a notice on any of its pumps or a statement to the effect of what the octane number of that gasoline was.

Q Yes.

A And can use that brand for advertising purposes regardless of any minimum value.

Q The minimum for the safety of the public and the maximum for its own advertising purposes?

A Yes.

MR. FRAWLEY: I think that covers it.

Q MAJOR LIPSETT: Would there be any advantage or disadvantage, Professor, from having the refineries compelled to state publicly the specifications under which the gas was produced either in various pumps or eslewhere, showing the specifications?

A I would suggest if standards are enforced in the Province that those standards should be pretty widely published and I personally would like to see a small pamphlet issued for the use of the motoring public and for the use of the farmers, explaining the standards and explaining the tests to give them a better, in popular language, to let them understand more about what they are buying in any given volume and what the relative merits were of the different grades.

Q That would give you the minimum of those standards?

A The standards would give you the minimum.

Q Oh, I see.

A I would like to make, I would like to see some information supplied to the purchasing public that would make them, put them in a position to purchase with a more, with a better understanding of what they were getting.

MR. FRAWLEY: I might say that the British Columbia regulations have three or four regulations which require that very thing, require that posting, well the first one, No. 8:

"8. No person in any zone shall sell or offer for sale, "for use in any automobile engine, gasoline in any drum

Professor Stansfield

"or other container unless such drum or container "has marked or labelled thereon, in letters and "figures easily legible, the number of imperial "gallons and the grade of the gasoline contained "therein."

"9. No person in any zone shall put into, deliver "to, or have in any tank or container, except in a "tank-wagon, any gasoline for the purpose of selling "or offering the same for sale to the consumer for "use in any automobile engine, unless such tank or "container, or the pump connected therewith, has "posted or painted thereon, in letters and figures "easily legible, the grade of the gasoline put into, "delivered to, or had in such tank or container."

and then 10:

"10. No person in any zone shall sell or offer for "sale gasoline to a consumer for use in any automobile "engine, unless there is posted or painted on the "pump, tank, or container from which the gasoline is "so dispensed, in letters easily legible, the grade "of gasoline contained in such pump, tank, or container."

And then 11 is the more important one:

"11. Wherever it is required in this regulation "that the grade of gasoline shall be marked, labelled, "painted, or posted, the grade shall be in conformity "with the standards set forth in Schedule A, attached "hereto, and shall be known by the names prescribed "therein."

But that does not mean of course that the particular standards shall be part of the posting, simply the grade?

A Yes.

MR. FRAWLEY: And then that gives the regulations ---

MAJOR LIPSETT: That gives the protection up to a certain minimum but it does not disclose to the motorist exactly the quality of the product they are getting?

A And the significance of testings and so on.

Q No?

A I would like to see them informed as to the significance the meaning of the octane ratings and so on.

THE CHAIRMAN: Whenever a refiner by spending money out of his own pocket gets something that improves his gasoline, I do not know that, unless he is forced to, that he feels like telling his competitors just how to go ahead and make the same thing.

MR. NOLAN: I agree, Mr. Chairman. What this does in fact is compel that the specifications be followed to produce the grade. I am referring to the British Columbia ones.

THE CHAIRMAN: Oh there, yes.

MR. NOLAN: But those specifications are not intelligible to the ordinary man. Professor Stansfield would know, but they are not intelligent to the ordinary man?

A No.

Q Because they are so technical?

A Yes.

Q The sulphur content,

"The total sulphur content shall not exceed 0.25 "per cent. by weight. The test shall be conducted "in accordance with A.S.T.M. Procedure D-90."

Professor Stansfield

MR. FRAWLEY: There are only a few of us who understand that.

MR. NOLAN: We understand that.

THE CHAIRMAN: Oh, yes, perfectly.

WITNESS: That was my comment just now, that I would like to see information prepared in simple language to go out to the consuming public explaining what these things mean . Take for example the question Mr. Frawley raised now that the motorist public is getting octane conscious, I think was the phrase he used, and a lot of people think that therefore they must pay, it is going to pay them to pay extra money to get a higher octane rating and they may have an old type of car with low compression in their engine, in which a low octane is just as good a fuel as the higher octane and they, in their ignorance, go out and buy a higher octane, where it is no value to them at all.

MR. NOLAN: If they are going to consult the Ethyl Corporation for that ---

MR. FRAWLEY: The Texas Corporation also has left the room.

Q MR. FRAWLEY: You think it is a lot of nonsense to buy these gasolines with a higher octane?

A Unless your engine requires it.

Q THE CHAIRMAN: Does it do harm to one of these old engines?

A Oh, no harm, sir.

Q MR. HARVIE: It just does harm to the pocket-book?

A To the pocket-book.

THE CHAIRMAN: All right.

Q MR. FRAWLEY: And what about differentials, price differentials, that is perhaps not in your line, that is perhaps not just related to the work you are doing?

A No.

Q What do you think about that?

A That is not my department.

Q MR. HARVIE: Just one point, Professor Stansfield, you have suggested that any standards adopted should be adapted to local situations?

A Yes.

Q Just what have you in mind in the changes which should be made as between say, Ontario and Alberta?

A At the time I was considering the question, making the study of the question, the question of summer gasoline which was produced in Edmonton was brought in and it looked as though the Alberta gasoline, some Alberta gasolines were containing an undue amount of, shall we say, the Turner Valley naphtha introduced and making it a little too volatile and I was not quite, I thought it was possible that some protection might be needed there over and above the vapor pressure. It is perhaps possible the vapor pressure would give all the protection necessary and the other point was the question of sulphur that I thought of. Sulphur is a very doubtful question and it has been very much thought over and we have been told by some very big authorities that the purchasing public is paying millions of dollars every year for the fetish of having no sulphur gasoline and that that is quite unnecessary. The point comes in rather more importantly with Alberta than some of the others because I believe our crudes here are rather high in sulphur and there is a

tendency that it will be rather high in sulphur in this province, more so than in some of the other provinces.

Q That is probably particularly true of 1936 when you saw so much naphtha from Turner Valley?

A Yes, I think so.

Q Yes.

A Then if, I suggest that we could possibly go part way towards meeting the situation by relaxing the sulphur requirement on the lower grades and in the summer months. I think, my own impression afterwards from all the literature I read on the subject is that sulphur is very unlikely to do very much damage in the summer months. It is only in the winter months it is likely to cause damage. Therefore I think we might make a commencement by relieving during the summer on the requirements of the sulphur for the lower grade gasolines to be sold in the summer months.

Q Yes?

A I would not suggest anything as drastic as the British Columbia that has gone to the limit of a quarter of a per cent. I think that is possibly going too far until the question has been more definitely settled by experts, shall we say.

Q Do you think that consideration might well be given to the type of crude available in different districts, as to variations in the specifications?

A I am not in a position to say that anything is necessary. I am open to receive suggestions.

Q Well just in the case of Turner Valley when it was producing a large percentage of high gravity products?

Professor Stansfield
J. S. Simpson

A Yes.

Q Would you consider that possibly from economic reasons it would be advisable to change its specifications and give a little leeway in order to give an opportunity of using more of that product than would be possible perhaps in other localities?

A I would think that would be quite probably adviseable.

Q So you would, in any specifications, you do think that consideration should be given to the type of the crudes available?

A Certainly. That is my point about saying considerations should be given to Alberta conditions.

THE CHAIRMAN: Anything more.

MR. FRAWLEY: Thank you very much.

.....

JOHN STUART SIMPSON, having been first duly sworn, examined by Mr. Frawley, said:

Q Mr. Simpson, you are a member of the firm of Harvey Morrison and Company, Chartered Accountants?

A I am.

Q And you were asked to make a survey of some retail service stations, some retailers, gasoline retailers in the City of Calgary?

A That is right.

Q For the information of the Commission, dealing particularly with the question of retail margins?

A Yes.

Q And you did make that survey, Mr. Simpson?

A I did.

Q And did you write a letter to Mr. Cottle after you had completed it?

A Yes.

Q Have you the letter there?

A Yes.

MR. FRAWLEY: I offer Mr. Simpson's letter reporting to Mr. Cottle on the survey.

(LETTER PRODUCED AND HERE MARKED EXHIBIT "607".)

THE CHAIRMAN: Now he is reporting exactly what?

MR. FRAWLEY: Reporting on the result of a survey made of a number of retailers of potroleum products.

THE CHAIRMAN: Retailers?

MR. FRAWLEY: Retailers of petroleum products in Calgary.

THE CHAIRMAN: And by retailers you mean ---

MR. FRAWLEY: Service stations and garages.

WITNESS: They are all service stations.

Q MR. FRAWLEY: They are all service stations?

A Yes.

Q Now I think the thing to do is to read that letter completely.

Q MR. HARVIE: And they were all in Calgary?

A Yes.

MR. FRAWLEY: All right.

A "Dear Sir:-

" Re: Service Station Operations.

" As instructed, we have "attended at, or received information from, represent-"ative service stations in the City of Calgary for the "purpose of ascertaining the result of their operations "for the year 1938."

" We submit, under separate cover, "a summary of the operations of seventeen service

"stations, together with details supporting statements "of each operator, which have been prepared from the "information supplied to us and which have not been "subject to audit by us.

" Attempts have also been made "to obtain figures from thirteen other stations, "but the records were either not made available to "us or were not maintained in such a manner as to "show detailed results. We would also point out that "in the statements submitted herewith, many adjustments "have had to be made between the quantity and financial "records and that, in certain cases, figures have had "to be estimated. We believe, however, that the "statements disclose a fair approximation of the results "of these stations.

" In the cases of stations "referred to as "B", "G", and "K", it was found impract- "icable to segregate the revenue from the sale of oils "and greases from the miscellaneous revenue.

" A classification of the twenty- "two operators of the seventeen stations into income "groups is as follows:-

"	$5,000.00 a year or over	2
"	4,800.00 " "	1
"	2,500.00 to $3,000.00 a year	5
"	2,000.00 to $2,500.00 a year	1
"	1,500.00 " 2,000.00 " "	8
"	1,200.00 " 1,500.00 " "	2
"	1,100.00 " 1,200.00 " "	1
"	750.00 a year	2
"	It Totals	22 Operators.

" It must be remembered, "however, that very few of these men have capital "with which to buy equipment and that any equip- "ment necessary is purchased with revenue funds. "Equipment owned by the operator for the average "leased service station varies between $700.00 "and $1,800.00. Station "E", owned by the "operator, cost $6,700.00 for the building and "equipment installed, with annual depreciation of "$680.00. No depreciation is calculated in the "statements submitted, nor does any return on the "capital invested enter into the net result."

MR. FRAWLEY: If the Commission would not mind I would suggest that the Commission adjourn now until two o'clock. I have asked Counsel and they have no objection.

THE CHAIRMAN: All right, we will then adjourn.

(The Inquiry was here adjourned to be resumed at 2.00 P.M.)

J. Stuart Simpson.

2 P. M. Session.

MR. FRAWLEY: Yes, Mr. Simpson, you were reading your report to Mr. Cottle.

THE CHAIRMAN: I suppose there is just one copy of that?

MR. FRAWLEY: There is just the copy that Mr. Simpson brought himself, yes, Mr. Chairman. I really did not know that the letter itself would be made part of the evidence.

THE CHAIRMAN: All right.

A "A summary of the rentals paid by the operators is as follows:-

tation	Company	Rent based on Gasoline Purchased	Rent based on Oil Purchased	Monthly Rental in Addition to Gallonage Charge
"A"	Texaco	1½¢ & 1¾¢	7¢	
"B"	Imperial	½¢		$61.50
"C"	"	2¢ &1½¢,Esso & 3-Star		
		1¢ & ½¢ White		100.00
"D"	"	1½¢,Estimated		
"E"	Owned by Operator			
"F"	Imperial	1½¢ Estimated		
"G"	Owned by Operator			
"H"	Imperial	2¢		
"I"	Union	1¢		
"J"	B. A.	1¢ & 1½¢ Estimated		
"K"	McColl-Frontenac	-		50.00
"L"	Imperial	1¢ & 1½¢		
"M"	B. A.	1¢ & 1¾¢		
"N"	B. A.	1¢ & 1½¢		
"O"	Imperial	1¢ & 1¼¢		
"P"	Bell	2¢		
"Q"	Imperial	½¢ "		

MR. FRAWLEY: I think this would be a good time to stop and offer the Summary of Operations, which you referred to earlier in that report, in that letter. I offer that as an Exhibit. It is a summary of the work that you did?

A Yes.

J. Stuart Simpson.

MR. FRAWLEY: I offer that as an Exhibit.

(DOCUMENT IN QUESTION IS NOW MARKED EXHIBIT "608".)

Q You had better finish the report, and then you can come back to that.

A "We understand that the rent paid by operators is measured by the volume, location and equipment installed, as it is clear from the above that there is not a uniform charge made by the companies.

The average spread received by the seventeen operators on the gasoline gallonage is 4.0557¢ per gallon.

A summary of the percentages of the revenue and expenses of the seventeen stations is tabulated as follows:-

Revenue	- Gasoline	39.42%	
	- Other	60.58%	100%
Expenses	- Rent	14.9%	
	- Wages	28.06%	
	- Miscellaneous	17.38%	
	- Bad Debts	1.9%	62.24%
Net Income before Depreciation			37.76%

It has come to our notice during our survey, that in several cases, lessees have been changed several times during the year due to their inability to successfully operate the station. For these parties, no records are available.

Yours faithfully,

"Harvey, Morrison & Co."

CHARTERED ACCOUNTANTS. "

THE CHAIRMAN: Before you go on, Mr. Frawley, there are some features of this I do not fully understand. Are these documents that are now being put in going to be discussed by Mr. Cottle, as Commission

J. Stuart Simpson.

Accountant later?

MR. FRAWLEY: Later, when Mr. Cottle is discussing costs generally.

THE CHAIRMAN: They will be the subject of review by him?

MR. FRAWLEY: Yes. By Mr. Simpson now briefly---

THE CHAIRMAN: All I am thinking about now is duplicating examination upon it. There may be no purpose in doing that here if they are to be gone into fully by Mr. Cottle, there is no object in going over the same ground with Mr. Simpsen.

MR. FRAWLEY: No. My examination of Mr. Simpson will be of the very briefest character. That is why I thought he might read his report and put in his summary, and that is about all.

Q Now, Mr. Simpson, you have before you a copy of the summary, Exhibit "608"?

A That is correct.

Q Let us clear up one matter at once. On the edge, on the lefthand corner of that sheet, Exhibit "608", you list a number of letters and you have supporting each letter and each figure that is used with that letter?

A Yes.

Q A complete, more or less complete, as complete as possible, statement of operations?

A That is right.

THE CHAIRMAN: That is in the nature of working papers that support this conclusion.

Q MR. FRAWLEY: Yes. That is so, is it? They are in the nature of working papers supporting these conclusions?

J. Stuart Simpson.

A Yes.

Q And as far as the results are concerned, as far as the examination that Mr. Harvie or Mr. Nolan of the work which you have done will of necessity need to be confined to an examination of "608" and everything that they want to find out from you can be ascertained from an examination of "608" alone?

A Yes.

Q So far as the working papers, they are in Mr. Cottle's hands for his information and will be subject, as we have just said, of a statement by Dr. Frey and Mr. Cottle. That, you understood, was the purpose in engaging you to prepare this work?

A Yes.

MR. HARVIE: So I understand we are to be restricted in some way on our examination of this?

THE CHAIRMAN: Not in the least.

MR. HARVIE: I gathered from Mr. Frawley's remarks that that is what he had in mind.

THE CHAIRMAN: I said to Mr. Frawley, and I say the same to you, that if these statements are to be fully discussed by Mr. Cottle, probably exactly the same ground need not be now traversed by Mr. Simpson. But we do not prevent you from doing it.

MR. HARVIE: I gathered from Mr. Frawley's remarks there was possibly something in his mind that he had that we would be restricted.

THE CHAIRMAN: As I understand it, Mr. Harvie, there are working papers behind these. I suggest they be filed as they were in the pipe line case, in case there is

some need for them to be referred to. Surely they do not need to be discussed unless you want to discuss them.

MR. HARVIE: I have not my instruftions as to it, as to whether there was any importance in the examination and cross-examination. I do not know that and I won't until we have had a chance to examine the statement. I did see it casually the other day and I did understand from Mr. Frawley there would be some restriction, either by request or otherwise, of our examination. If there is I would like to know what it is.

MR. FRAWLEY: I have told you about it, Mr. Frawley.

THE CHAIRMAN: Oh, no, you are not being restricted. Any further questions of Mr. Simpson?

MR. FRAWLEY: No.

MR. NOLAN: I think that time is saved and my purpose is served by delaying any examination that there might be until the whole matter is discussed by Mr. Cottle at some other date.

THE CHAIRMAN: As I understand it - I do not want counsel to think I am interfering with the examination - but, as I understand it, these are put in in order that they might be the subject of discussion by Mr. Cottle and examined fully by him and discussed by him. If there is any question of fact that you want to adduce from Mr. Simpson as to how he got these, or are they accurate or anything like that, of course----well, in fact, I should not have said anything. I was just thinking we might save duplication.

J. Stuart Simpson.

MR. NOLAN: I do not propose to ask any questions other than this.

Q Mr. Simpson, these stations were taken at random?

A That is right. They were really based on the gallonage. We wanted to get representative gallonage figures. You will notice on the statement it runs from 30,000 gallons per year to 192,000 gallons. That was the basis, and not companies at all.

Q Then the selection has been made of representative stations on the basis of gallonage put through?

A That is correct.

Q MR. COMMISSIONER LKPSETT: Is there any reference to locations at all, Mr. Simpson?

A On this statement there is no reference to where they are.

Q But I mean when you were picking them did you pick them in different parts of the city?

A Yes.

Q Or did you take them grouped together?

A Yes, they are in all parts of the city, these stations.

Q You did not go into the question of how close other stations were to these, or anything like that?

A No.

Q Just simply the accounting end?

A Yes.

THE CHAIRMAN: Anything more, Gentlemen?

MR. NOLAN: No, thank you.

MR. FRAWLEY: Now, Mr. Chairman, I find the conduct of this particular two weeks more difficult from my standpoint in keeping things going than any part of the Commission up to date. I have, as you know, just a series

of small matters. I now propose to put in a representative of the Peat, Marwick, Mitchell & Company, to present a report that he made on the Texas Company, not for discussion either. Very much the same exactly as what we have just had from Mr. Simpson. I said to him "Three o'clock", but I can do better than that. I think I could get him here at half past two.

THE CHAIRMAN: No doubt a telephone call would get him.

MR. NOLAN: Does it have to be proven. As far as we are concerned, it can be marked.

MR. FRAWLEY: This was made for Mr. Cottle and addressed to Mr. Cottle by Peat, Marwick, Mitchell & Company. With my friend's consent, I think I can speak for Mr. Plotkins in discussions of similar matters I have had with him and, perhaps, if Mr. Cottle went on the stand and it was filed and marked.

THE CHAIRMAN: That is what you received from these people, having requested them to do certain work. Does that suit you?

MR. HARVIE: I would think that would be entirely satisfactory.

MR. FRAWLEY: It would be understood that----

MR. NOLAN: Then there is Mr. Macleod.

THE CHAIRMAN: Well, Mr. Frawley, my associate makes a suggestion that seems to be a good one, that Mr. Cottle first say what he wishes about it and we will introduce it and mark it for identification, and get Mr. Macleod here when next we meet. And also have your witness here, the representative of Peat, Marwick & Mitchell

for Mr.Macleod to examine. I did not appreciate that you said it was with respect to the Texas Company operations.

MR. FRAWLEY: Yes.

THE CHAIRMAN: Undoubtedly Mr. Macleod should be here, Mr. Nolan. That escaped me. It is very important.

MR. FRAWLEY: I thought Mr. Cottle would be able to say that he had received certain information from Mr. Macleod.

THE CHAIRMAN: Mr. Macleod might want to examine the man who prepared that.

.....

E. G. COTTLE, recalled,

Q BY MR. FRAWLEY: You are still under oath, Mr. Cottle? I show you a report or memorandum re the Texas Company of Canada Limited, purporting to be made by Peat, Marwick, Mitchell & Company, Chartered Accountants. Did you duly receive this report, or this memorandum, from Peat, Marwick, Mitchell & Company?

A Yes, I did.

Q Was it prepared by Peat, Marwick, Mitchell & Company on your instructions as Commission Accountant?

A Yes.

Q You say it was made on your instructions as Commission Accountant?

A Yes, it was.

MR. FRAWLEY: I offer that for identification, Mr. Chairman.

(DOCUMENT IN QUESTION IS NOW MARKED EXHIBIT "Z" FOR IDENTIFICATION.)

F. G. Cottle.

MR. FRAWLEY: There might be this understood, that if Mr. Macleod, whose clients, and who himself has had this report for some time, desire not to examine Mr. Cottle, then Mr. Cottle can come back, perhaps, and it can be marked as an Exhibit.

THE CHAIRMAN: Yes, if Mr. Cottle tells you and you tell us he has no objection to it being marked as an Exhibit without being proven by the representative of Peat, Marwick & Mitchell, we will just mark it.

MR. FRAWLEY: It might save Mr. Macleod from coming over here if he does not desire to do so.

THE CHAIRMAN: Quite so.

MR. FRAWLEY: Well, that is all then of the evidence that I have to-day, Mr. Chairman, and going through my agenda it is going along quite well. I must say this by way of warning, that one of the important witnesses for this Sittings is Mr. Russell of the Department of Customs at Ottawa and his coming has been the subject of considerable telegraphic communication between myself and my Ottawa agent. I am now told that Monday, the 2nd of October, a week from next Monday, is the earliest that Mr. Russell can come. He has been down in Halifax and he is coming out here specially, it might just mean not a very full week next week, and then Mr. Russell for I think, perhaps, only a couple of days.

THE CHAIRMAN: It is, perhaps, as well that Mr. Miller will be here then, will he not?

MR. HARVIE: He will be here this coming Monday.

THE CHAIRMAN: And I think Mr. Halvorson should

know he is coming. Well, I would not say that. Mr. Nolan should be alive to the fact that these matters are coming up and there is not strict enforcement of these Anti-dumping Laws, and anything that has to be said on the subject it might be nice to have it said when Mr. Russell is here. Anything further to be said?

MR. NOLAN: Mr. Frawley did give me notice of the fact this was coming up and that notice has been conveyed to my clients.

THE CHAIRMAN: Well, Mr. Frawley, have we a day's work to-morrow?

MR. FRAWLEY: Now, I am glad you asked this.

THE CHAIRMAN: I am not thinking of ourselves, but it seems too bad to bring counsel here for parts of half days if half a day could do all you can do.

MR. FRAWLEY: I am very alive to that. I presume Mr. Harvie's and Mr. Nolan's days are pretty well spoiled by Commission work anyway, but I am anxious to be of as much help to them as I can. I thought I should get this man Trimble here to-morrow, who is a Montana importer, perhaps the biggest individual importer.

THE CHAIRMAN: Is he the Artic Oils?

MR. FRAWLEY: No, he operates as H. M. Trimble & Sons. But I find the man, who is an elderly man----

THE CHAIRMAN: You are not neglecting the Artic, are you? as they seem to be busy people.

MR. FRAWLEY: Yes, perhaps I must plead guilty to having been thinking of neglecting them in the post-war situation. It would be interesting to examine them about some things you know about and I know about, Mr. Chairman, but as far as their real contribution to this

marketing situation is concerned, I did not think they differed enough from some evidence we have.

THE CHAIRMAN: Well, we think so.

MR. FRAWLEY: Mr. Harvie had particularly asked me to call Mr. Trimble. Mr. Trimble is ill He said he would come but he is still ill. I talked to him on the 'phone and he said he would make a special effort to be here to-morrow. That being so, it may be that we would have nobody but Mr. Trimble for to-morrow. We will try and have as much other work as I can. We are getting something in every day and while it is true it is not a full day any way it is, perhaps, the best we can do.

THE CHAIRMAN: Will you have anybody but Mr. Trimble, assuming he does come, will you have anybody else to-morrow?

MR. FRAWLEY: I may have a short statement from Mr. Plotkins, I think, and, perhaps, not much else.

THE CHAIRMAN: Short?

MR. FRAWLEY: I used the word "short" advisedly after talking to him, and I think I can say particularly that it will be short. I have something to ask my friends. They could go a long way with me in proving my map. That is still unproved and that may turn out to be important to everybody, including them. I think they are willing to go a long distance with me. I can say as counsel that the map has been prepared by a very competent draftsman on the information given to me by my friends themselves, and I am expecting them to go a little distance with me and accept that statement from me, and to say that my map is satisfactory as far as they are concerned, and

F. G. Cottle.

I suppose that will prove it as far as the Commission is concerned.

MR. NOLAN: I will not only go a little distance but I will go the full distance, and say if the map shows upon it the information given by my clients to Mr. Frawley, I am quite content that it be taken as a map.

MR. HARVIE: Yes, I think that is perfectly right; We will have it gone over and if there happens to be any error we will have it fixed up.

THE CHAIRMAN: Subject to that there will be no difficulty.

MR. FRAWLEY: No. In Mr. Harvie's case I took pains to have it as of a certain date which he gave me. I think the map itself states all that.

MR. HARVIE: That is so. It is a matter of transition of our stations and we had to define some definite date.

MR. FRAWLEY: We did that , and the map goes that far. That only leaves me a certain number of the smaller companies and I will try to do the same. But I would like the privilege of some informality. If I come to the Commission and state that I had it looked at by these other companies I could be excused from putting them into the box and all that.

THE CHAIRMAN: Oh, I think so.

MR. NOLAN: What would be more simple than to have the Gentleman who did the manual work on the map say he has placed on the map the information contained in the statements submitted by the companies.

MR. FRAWLEY: Well, by me, and I can say it

came from the companies.

MR. NOLAN: There are so many companies, if we get all the companies looking at the map it will take so long.

THE CHAIRMAN: Yes, so long as Mr. Nolan and Mr. Harvie find no error it is not likely that anyone else will. I do not see any use in going to such great pains. If it is challenged in any way, that is another matter. It is only a map----

MR. FRAWLEY: Just for the guidance of the Commission.

MR. HARVIE: I am perfectly prepared to consent to it being admitted and marked as an Exhibit and then we will have it checked as expeditiously as possible and if there are any typographical errors we will draw attention to them.

THE CHAIRMAN: If you make the statement as counsel that you got the information from the companies, and, as Mr. Nolan suggests, the draftsman says he put on that map the information you gave hmm, I think you have made your connection.

MR. FRAWLEY: There is just the odd case where the information came from the registration, Licence Department at Edmonton, and that in turn was from the companies. If there is no challenge surely it can be used and acted upon by the Commission.

THE CHAIRMAN: You think Mr. Trimble will be here so we can sit at 10:30. If he is not coming until the afternoon there will be no reason for us assembling. You will let us know and let counsel know?

MR. FRAWLEY: Yes.

(At this stage the Hearing was adjourned.)

J. J. FRAWLEY

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The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta SEPTEMBER 22nd, 1939

VOLUME 120

BOX 83

I N D E X

VOLUME 120 - September 22nd, 1939 Page

WITNESS:

Henry M. Trimble, sworn.....13,410

E X H I B I T S

EXHIBIT 609
Financial Statement, H. M. Trimble & Sons, for the year 1938.....13,435

10:30 A. M. Session,
22nd September, 1939.

HENRY M. TRIMBLE, having been first duly sworn, examined by Mr. Frawley, said:

MR. A. L. SMITH, K. C.: I am appearing, Mr. Chairman, for the Alberta Petroleum Association. I guess that is the name of it.

MR. FRAWLEY: Yes.

Q MR. FRAWLEY: Mr. Trimble tells me he has not been well and it occurred to me he might perhaps sit down and give his evidence sitting?

THE CHAIRMAN: Yes, no objection if you prefer.

Q MR. FRAWLEY: Now, Mr. Trimble, you are engaged in more than one business in the Province of Alberta?

A Yes.

Q But one of those businesses is the importation from Montana of petroleum products and their sales in the province of Alberta?

THE CHAIRMAN: Just before you go on, Mr. Frawley, what is the name of the client you represent, Mr. Smith?

MR. SMITH: The Alberta Petroleum Associatio

THE CHAIRMAN: And that Association is ---

MR. SMITH: It is an association, sir, of producers. I think it includes practically all of the producers.

THE CHAIRMAN: All branches of the industry?

MR. SMITH: No, producers.

THE CHAIRMAN: Of the producers.

MR. SMITH: I am sorry, that should include the refiners, the producers and refiners in this province.

THE CHAIRMAN: Now it is an association of which such people are members, the producers and refiners?

MR. SMITH: Yes, My Lord.

THE CHAIRMAN: Is it suggested that all producers and all refiners are members?

MR. SMITH: I am not sure that it covers all. I do not think they are all members but certainly a great majority.

THE CHAIRMAN: Then it is an association of some producers and some refiners?

MR. SMITH: Yes.

Q MR. FRAWLEY: Then just going back a bit, under what name do you carry on your business of bringing in gasoline?

A H. M. Trimble & Sons.

Q It is a partnership only and not a company?

A Partnership, a registered partnership.

Q And you say one of the businesses you are engaged in is the importation of petroleum products into Alberta and Saskatchewan from Montana?

A Yes.

Q Is your business in Saskatchewan as big as your business in Alberta?

A Larger.

Q Well it is interesting to know that but I will endeavor to confine my examination to your Alberta business. Now how long have byou been engaged in the importation of petroleum products from Montana?

A Probably about four years.

Q Yes, and how far into the province does your importations extend?

H. M. Trimble

A From Great Falls, that is the furthest it is drawn from?

Q That is on the Montana side?

A Yes.

Q Then on the Alberta side, how far up into Alberta do your trucks come?

A About Claresholm on this Macleod line and a line drawn East of that.

Q Do you go in a westerly direction in Southern Alberta, do you go up towards the Crow's Nest Pass?

A Not as far as Cardston.

Q You do not even go as far as Cardston?

A No.

Q You enter the province and go pretty well north as far as Claresholm, directly north to Claresholm, and then on the other line, the Vulcan line, about what settlement there?

A We have not a great deal of business north of Lethbridge, not such an awful lot.

MAJOR LIPSETT: North of where?

Q MR. FRAWLEY: North of Lethbridge and then Easterly towards Medicine Hat where do you go?

A We go a little east of Taber.

Q MR. FRAWLEY: How many, how do you import, by what means do you bring the gasoline in?

A Trucks.

Q Trucks only?

A Yes.

Q How many trucks about have you in that service?

A In the Alberta service?

Q Yes, if you can divide it?

A We have three of our own. We have to hire an occasional load drawn.

Q And the size of the trucks would be what, Mr. Trimble?

A At Lethbridge the trucks, two of them are 1305 gallons each and the other 1485, 29 drums and 33 drums.

Q When you say at Lethbridge, what does that mean?

A That covers the Alberta business.

Q The Head Office of your Alberta business is in Lethbridge?

A No, it is here but we have an office in Lethbridge.

Q A Lethbridge office that looks after the immediate business of importing the gasoline and distributing it?

A Yes.

Q MAJOR LIPSETT: Did you say your Head Office is here?

A Yes, our Head Office is in Calgary for all our business.

Q MR. FRAWLEY: Now in the year 1939 from how many places in Montana did you import petroleum products?

A The Big West Oil Company, the most of it is bought through.

Q The Big West Oil Company at Kevin, Montana?

A Yes.

Q The most of it, now what percentage, so the Commission will know, you might state that?

A Oh, 90% of it I would say.

Q 90% of it is bought at the Big West Oil Company refinery at Kevin, Montana?

A Yes.

Q So that would mean that the smaller lot, the 10% is purchased at a variety, a number of places I suppose?

A The Cutbank Refining Company, Hannah Porter ---

Q That is ---

A And the Havre Refining Company, I think that is all.

Q At Havre, Montana?

A Yes.

H. M. Trimble

Q Now do you have a firm, a business arrangement with the Big West Refinery with respect to your products or do you just buy from transaction to transaction, each one separately?

A No, I bought the season's needs from them last winter, early in the spring.

Q You made arrangements for the 1939 season's requirements early last spring?

A Yes.

Q And what was the arrangement which you came to as to quantity?

Q THE CHAIRMAN: That is for 1939?

A Yes, this spring, this past spring.

Q Ending the first of January, 1940?

A Beg pardon?

Q When does the period you are operating for end?

A Just this season.

Q When does this end?

A 1939.

Q MR. FRAWLEY: About what month in 1939 would it end?

A The last of 1939.

Q You would run through to the end of December?

A Yes.

Q And then what was the arrangement which you made?

A Prices?

Q Well quantities and prices?

A Well as for quantity we undertook to take at least a million gallons of gasoline.

Q And when you say "gasoline" do you mean, that is speaking of gasoline alone?

A Yes, we did not expect to buy much distillate from them.

H. M. Trimble

Q And of gasoline, how many grades were in contemplation at that time?

A What they call Grade "A" with an octane of around 71, that is one and what they call "Straight Run", that is tractor gasoline.

Q And when you made these arrangements with them last spring were prices discussed and agreed upon?

A Yes.

Q And what was the price agreed upon for Grade "A"?

A 7 cents and straight run 5, subject to no real change in the crude prices of course.

Q Yes, subject to change in crude prices that is a real change you say?

A Yes.

Q It would have to be a substantial change in the crude price?

A That is the word "substantial change".

Q And these refinery door prices were 7 cents for the U. S. gallon or the Imperial gallon?

A 7 cents for the U. S. gallon.

Q 7 cents for the U. S. gallon for the first grade and 5 cents for straight run or what might well be called, "third grade gasoline"?

A Yes.

Q And was there a price discussed or agreed upon for tractor distillates?

A 4½ cents but we were not to take much of it because they didn't want to sell it.

Q 4½ cents for tractor distillates but you were not to take much of it?

A No.

Q But if you had orders for tractor distillates to satisfy

your customers ----

A I will just explain that, the idea was if we went there for a mixed load they would always give us some distillate but if we were getting distillates by the load we were supposed to get it some place else and that we could at that price.

Q You could buy distillate at 4½ cents at other refineries?

A Yes.

Q But the Big West did not favor doing much business with you for tractor distillate?

A They have a cracking plant, which the small refineries have not, and that is why distillate is worth more to them.

Q Now you have been trucking then consistently week by week these products into Alberta?

A Yes.

Q A million dollars or a million gallons, I suppose that is what you had in contemplation using for your business in both provinces I suppose?

A Both provinces.

Q I do not suppose you can give us or have you calculated how much products you have imported into Alberta during the year?

A Up until now you mean?

Q Well up until now?

A Well I would think close to half a million.

Q And there has not been any change in these prices?

A No.

Q The crude prices did not change enough?

A No, no change in our prices.

Q You are still buying Grade "A" at 7 cents and third structure

at 5 cents?

A Yes.

Q Now you operate these trucks, you say, in the main, except for the occasional load, by your own trucks?

A Yes.

Q Your own salaried employees do it?

A Yes.

Q And can you tell me what the laid down cost, first of all so the Commission will know, what do you do with that gasoline when you start, as you truck it into Alberta how is it disposed of?

A Practically all to the farmers, large farmers.

Q To the farmers on their farms?

A Yes. One or two I think, what we call "pump accounts" or "filling station accounts".

Q One or two pump accounts or filling station accounts?

A That is all, there is one in Lethbridge where we use our own gas back for our trucks.

Q One in Lethbridge you say?

A Yes.

Q A pumping point that you supply?

A Yes.

Q Where you also buy gasoline for your own use?

A Yes. and I believe there is a co-operative in Coaldale but it is all the farmers' business, practically all.

Q Your trucks go directly to the farmers' farms?

A Yes.

Q And you do not, it is all in tank trucks, you do not truck anything in in barrels of course?

A No.

H. M. Trimble

Q You make delivery from your tank right into the farmers' barrels on his farm?

A Yes.

Q And the price he pays is the price delivered into his barrel on his farm?

A That is right.

THE CHAIRMAN: I would like to know whether Mr. Trimble supplies barrels.

MR. FRAWLEY: Yes, I was going to ask him that.

WITNESS: No.

Q MR. FRAWLEY: The answer is "no".

A Except for a very, very few at Lethbridge. I do not think we have 25 barrels out in the district. They buy their own tanks or drums.

Q They buy or otherwise acquire their own?

A Yes. We put in a carload of barrels last spring and we sold the bulk of them. There is probably 50 in our yards down there, that is there is no call for them.

Q You say you did bring in half a carload?

A A full car of drums but they were sold.

Q How do you mean they were sold?

A To customers.

Q Your people sold them?

A We sold them and got the money.

Q That is interesting, did you have any trouble selling them?

A No, not at all.

Q The farmers quite prepared to buy their own barrels?

A We could have sold another car if we had brought them into Saskatchewan and Alberta.

Q How much did you have to charge for them?

H. M. Trimble

A I think it was roughly around $2.75 a drum.

Q They were not like these barrels we have heard so much about, these steel barrels at around $8.00?

A No, they were not 85 pound drums, they only weigh about 55 pounds.

Q You sold them to the farmers who were glad to buy them from you at two or three dollars a piece?

A Yes.

Q And it is those drums chiefly that are being used?

A They have been accumulating storage for years, the Southern Alberta farmers.

Q What do you mean by "storage"?

A Tanks, they buy a lot of tanks there as well as drums. We supply farmers with three or four thousand gallons of storage.

Q On the individual farm?

A On the individual farm.

Q The large farmer?

A Yes.

Q And it goes into his tanks like it goes into the dealer' tank?

A Yes.

Q Do they have Bowser pumps in connection with those tanks?

A The farmers?

Q Yes.

A The odd ones have pumps, hand pumps.

Q Perhaps elevated?

A Some of them are raised and we pump into them and some are on the ground.

Q But there are a lot of farmers that you do business with

H. M. Trimble

that have tanks?

A A lot of them.

Q And others have drums?

A Yes.

Q We understand then your modo of operation. Now are you able to tell me ---

THE CHAIRMAN: We heard something about drums, Mr. Frawley, we spent a lot of time on drums and are now hearing about a new type of drum at an entirely different price and I am anxious to know if they are useful and so on.

Q MR. FRAWLEY: Yes, where do you buy these $2.00 drums you are speaking of?

A I bought those from the Active Trading Company of Vancouver when I was over there last winter. They handle more drums than anybody else in Vancouver.

Q Were they new or second hand?

A Used drums. They had been used once, mostly.

Q You know where they were made?

A No, different places probably.

Q Have you contacted any people like the Western Steel Products or any of these people in Alberta to buy drums?

A A few. We bought a few for the farmers from the Western Steel?

Q A few like you have been telling us about?

A No, heavy steel drums.

Q What did you sell them at?

A What they cost us. Just gave them to the farmers at what they cost us. I think they cost us in lots of ten or more around $8.00 or a little more.

Q But if you wanted to you could get a constant and steady

H. M. Trimble

supply of these drums, these two or three dollar drums?

A Well we had a letter from them a month ago wanting to sell more.

Q Are they quite satisfactory?

A They are. You cannot move them around like you can the heavy steel drums but if they are left on the place and used they will do a number of years. They are galvanized, these drums are and they will not rust very quickly.

Q What capacity are they, the same capacity as the $8.00 steel drum?

A Yes, the same capacity.

Q Any question of a greater evaporation or less, in using those drums?

A Oh, I would not think so.

THE CHAIRMAN: What about safety?

Q MR. FRAWLEY: Oh, yes, are they as safe, is their any question of them being less safe for the handling of these products than the steel drums?

A I do not think there is any danger whatever.

Q Have you had any complaints about them at all?

A None at all in that way.

Q Mr. Harvie suggests, and I was not familiar with that expression, are they what are called "a one-time shipping type of drum"?

A You mean used once before?

Q No, are they what is called a one-time?

A I am not familiar with that term.

Q They are manufactured and sold by this company in Vancouver?

A No, no. They are picked up from all people who get in products in these drums. They are picked up and bought from all merchants in the city.

Q What kind of products?

A Well, lubricating oils but you must get a drum that you can clean, you understand.

Q Yes?

A That is the main thing of buying a used drum.

Q Well as the Chairman says, we are taking some time about this because we have heard so much about drums, are they drums manufactured for the purpose of handling gasoline and distillate?

A No, I would not say so. That is not what they were manufactured for first.

Q Not when they were manufactured first?

A No, these companies would require other things, lubricating oils and that kind of thing, I think they had them manufactured for that purpose for which they were first used.

Q Are they 45 gallons?

A Yes, around 46 or 47, over 45 anyway all of them the same as the big steel drums.

Q And are there plenty of them that can be purchased, I mean if all the farmers in Alberta wanted them, could they get them from this company?

A I think they will get, well they couldn't buy them from that company, because they couldn't buy a carload.

Q But if you decided to bring them in?

A I believe there are enough drums to practically supply all that is needed in Alberta. I see them around the junk shops here piled up. There has not been much selling this summer. I think they have all they need.

Q MAJOR LIPSETT: Are these drums which you refer to as being available, are they drums that have been originally supplied for gasoline by the larger companies,

that you mentioned seeing in the junk shops?

A Here in the City of Calgary for instance?

Q Yes.

A They buy them to sell for gasoline, mostly that is what they are bought for.

Q Are those drums that have originally been distributed by the larger companies with gasoline?

A They were originally picked up from people who buy lubricating oil and linseed oil and things like that.

Q MR. FRAWLEY: Now, Mr. Trimble, can you now tell me what the cost of your, take any one of these products, take Grade "A", what the cost would be at any point you would like to choose, say, let us say you have a farmer customer a few miles, from any place you like to name, Lethbridge or Milk River, take any point you like and tell me what you estimate to be your laid down cost, quite apart from the price you charge, of Grade "A" gasoline purchased from the Big West, Gasoline at 7 cents per wine gallon?

A Had we better give the cost, what that really costs with duty and it is transferred into the Canadian gallon first?

Q Just proceed to give us that evidence, that is fine.

A The Grade "A" gas costs 10.25 about.

Q At what point?

A With duty paid and we have to draw it, transfer it into Canadian gallons, it costs 7 cents, that is 8.4 in Canadian gallons.

Q Let us not go too quickly about this, let us build it up as it were, 7 cents, U. S. Wine Gallon at the refinery?

A That is 8.4 in Imperial Gallons.

MAJOR LIPSETT: Mr. Frawley, would you just find out where the 10.25 in the Canadian gallon was at?

H. M. Trimble

Q MR. FRAWLEY: We will get that, becuase I think we cannot miss it. We will have to get it this way, where was the 10.25 at, at what point, at the bordor?

A Yes.

Q At the border?

A Yes, you can put it at the border because you have to put it, haul it to the border.

Q What you have done is arbitrarily put the border at Kevin, Montana, the Kevin Refinery?

A Yes.

Q 8 miles away?

A 20 miles.

Q It is 20 miles?

A Yes.

Q Of course, 20?

A Now we had the 8.4, the price Canadian gallon or Imperial gallon; duty 1 cent a gallon.

Q Not too fast, that is at the refinery it is 8.4, at the refinery, Imperial gallon?

A Yes.

Q The duty?

A 1 cent a gallon.

Q Yes?

A Now you have to add them together to get your sales tax, 8% on that total.

Q All right, 9.4 cents and then you add what?

A Your sales tax 8%.

Q Have you figured that out?

A .752.

Q .752 is the sales tax?

H. M. Trimble

A And you take the broker, roughly $1.00 per thousand gallons, that is .1.

Q .1 is the brokerage charged?

A Yes.

MR. PLOTKINS: .01 is it not?

Q MR. FRAWLEY: .01 is it?

A No, it would be .1 I think so.

Q Now which is it, $1.00 a thousand gallons?

A That would be 1 cent a gallon, .1.

Q Is it $1.00 a thousand gallons?

A Yes, is that right Mr. Plotkins.

MR. PLOTKINS: Yes.

WITNESS: Adding that, you have a total of 10 ----

Q MR. FRAWLEY: Just a moment, we are taking the brokerage then at .1?

A Yes.

Q Then the next?

A A total of 10.252, roughly 10.25 I put it.

Q 10.252. Now that is the cost, exclusive, that is the cost at the refinery exclusive of hauling?

A That is it.

Q Yes. Now then you take a point, Lethbridge, you know what the mileages all are, take a point ---

A I think we had better finish these prices.

Q Oh sure.

A Stright run, while we are on this, the straight run gasoline costs 5 cents American gallon which is 6 cents Imperial gallon.

Q Yes?

H. M. Trimble

A Duty 1 cent a gallon.

Q Yes?

A That is 7 cents. Sales tax on that .56.

Q Yes?

A Brokerage again .1, a total of 7.66.

Q Now that is at the refinery exclusive of haulage?

A Yes. Distillates.

Q Yes, all right.

A Distillate at 4½ is 5.4 Imperial Gallon; duty .5 on the distillates, ½ cent; sales tax .472.

Q Yes, we are making a sub total there of 5.9?

A Yes.

Q Sales tax?

A .472. Brokerage .1, total 6.472.

Q Yes. Now you start to haul that into Alberta. With that starting point, and let me ask you generally, what do you figure or have you got an estimate of a per gallon per mile charge or rate or estimate for that?

A Well I would not say we sold it just on that, I can tell you about what it costs us.

Q Never mind about selling it. You haul an awful lot of gasoline?

A Yes.

Q What does it cost you per gallon per mile, have you a figure like that?

A Yes.

Q What does it cost you?

A The figure to distribute it around Lethbridge is 8.5 per mile per thousand gallons.

Q 8.5 per mile per thousand gallons?

A Yes.

Q Yes. Well, now, that is all right. But have you broken that down and can you pick a point out. You can pick a point out and give us the cost?

A Our average haul there is 150 miles, roughly.

Q What you are going to give us is the average laid down cost?

A Yes. Now, our loads on our own trucks average 1365 gallons.

Q Yes?

A And that works out about 11.6 a running mile for our trucks. Or 1.74 cents per gallon. That is a rough average.

Q In other words, you say for what you distribute in this 150 mile zone it costs you 1.74 cents per gallon?

A Yes.

Q In other words, what you do to arrive at the cost----

Q THE CHAIRMAN: That is everything, is it?

Q MR. FRAWLEY: That is the two grades of gasoline and distillates?

A It will be the same per gallon for everything.

THE CHAIRMAN: That is the cost of the gasoline and the use of the trucks and everything else?

Q MR. FRAWLEY: That is depreciation on the trucks?

A I cover everything.

Q How about wages?

A That covers everything.

Q THE CHAIRMAN: 1.74 cents per gallon.

A It is impossible to work it out to the cent and nobody can take the depreciation on the trucks and everything. That is as close an estimate as I can give.

Q MR. FRAWLEY: If you wanted to answer the question as to what the full complete laid down cost of the product at a point in this 150 mile zone was, and that

is Lethbridge, is it. That is a typical point, is it?

A Yes.

Q Let us say Lethbridge. If you want to find out what the cost laid down at Lethbridge is you would simply take these figures of 10.252 for the A Grade gasoline, which we can call the regular gasoline?

A That is what they call it.

Q 10.252 at the refinery for regular gasoline, and add 1.74.

MR. PLOTKINS: No, you do not add 1.74. That is the average cost per 100 miles, and Lethbridge is 150 miles?

A 75 miles each way. Lethbridge would be a little more than the average distance.

Q MR. FRAWLEY: Suppose I just put the question to you, can you tell me your laid down cost at Lethbridge, what would be your answer. Would it be 1.74 added to the 10.252?

A No, I would not say that. In the first place there are a good many things enter into the price this gas is sold at there. We are selling gas to co-operatives and groups of farmers.

Q Yes?

A Many of them who hauled their own gas from Montana before.

Q I am afraid you are getting into price.

A I thought that was what you were getting at.

Q No, your cost now. I have not got into price at all. If I asked you what your laid down cost would be----

A Our average for hauling is 1.74 and if Lethbridge is 25 or 30 miles further I have given you the price it is costing us per mile here, so it could be easily figured out. I gave it at a cost of about 11.6 per mile.

H. M. Trimble.

MR. PLOTKINS: That is not correct. 11.6 per mile per thousand, amd it is 86 miles.

A About 93 to 95.

Q Do you want to call it 95?

A 95.

Q 95 twice, that is 190 miles?

A If you multiply that by 11.6.

Q 8½, you get it by each gallon.

Q MR. FRAWLEY: I want to get it in the record, the cost at Lethbridge of these three products to your company. Now, how are we going to do it. 8.5, that is 1,000 gallons?

A Yes, but it costs us on our load, I gave you 11.6. It costs us that per gallon, considering our load.

MR. COMMISSIONER LIPSETT: That is because your trucks average 1365.

A Two are 1305, 29 drums - they are for even drums - one is 1485 or 33 drums.

Q But they average 1365, you said?

A Yes. Of course, you are getting into deep water when you get into these fractions in the hauling cost. Because the further you haul stuff the cheaper you can haul it.

Q MR. FRAWLEY: I am going to suggest this to you, Mr. Trimble, that you take the mileage of 95 miles and you double that, that is 190 miles. 8.5 cents is what you say your cost per mile is per thousand gallons?

A Yes.

Q That would be 1.615, or in cents per gallon, 1.61 cents. Are you content with that. That would be your Lethbridge cost?

A Just as I see it now, I think we had better use this other

figure of 11.6. That is what it costs us to draw, considering the load we draw.

Q MR. PLOTKINS: You are doing it the complicated way because you have to reconvert it back into gallons?

A It does not make any difference. I am not well enough to go into a lot of this stuff. I am under a clinic every day.

Q MR. FRAWLEY: We want to try and get these laid down costs. I am afraid we will have to leave it as it is until Mr. Cottle works it out for me, the laid down cost.

A Yes, you have sufficient.

Q What do you do in the matter of price. What do you do when you come to sell this product?

A Well, in that district they sell it for about what you can get. Competition is very close.

Q Let me put some prices to you, and I want to know what you sell these products at. Now, the Lethbridge price on third structure gasoline---well, let us take your regular gasoline. The Lethbridge price on regular gasoline is 17.7 cents. That is the price at which it is delivered on the farmer's property. Can you tell me the price at which you sell your gasoline that you buy for 7 cents at the refinery, U. S. gallon?

A It averages us 13.25 cents on the farmer's property.

Q You get that?

A Yes.

Q You get 13.25 cents?

A Yes, that is our average.

Q The average over what district?

A I took that for the months of May and June, the two big months this Summer.

Q That is for all the gasoline you sold?

H. M. Trimble.

A Grade A.

Q All of the Grade A gasoline you sold in the whole of this territory you supply?

A Yes.

Q South of Claresholm and district?

A Yes.

Q MR. HARVIE: That would not be Saskatchewan?

A No, I am not giving you anything about Saskatchewan.

MR. FRAWLEY: Saskatchewan is out, as far as I am concerned.

Q Now, for the third structure?

A Average, 11 cents.

Q And for the distillate?

A 9.5 cents.

Q That is the price you received?

A Yes.

Q If I just put on the record what the Imperial Oil's posted prices at Lethbridge are. 17.7 for regular, 14.7 less 1.5, 13.2 is the Imperial price at Lethbridge for Acto or 3rd structure gasoline, and 12.2 is their price for tractor distillate at Lethbridge?

A That is the prices you have. We meet plenty of competition with the Imperial Oil on these prices.

Q You meet plenty of competition?

A Yes.

Q These are the prices which Imperial Oil get-----

A I do not know anything about their posted price.

Q Do you know anything about their actual price, the price that actually goes into their pockets?

A Yes, I know we get competition from them right on these prices.

H. M. Trimble.

Q Well, bluntly, that they are selling at less than their posted prices?

A My sons tell me they go into a farmer's yard and put it into his tanks at our price and want him to try their gasoline. I am not running the business down there, but that is what I am told by my boy. Then there is Artic Gold and the Great West Distributors. As far as the posted prices are concerned, they would not mean anything in the Lethbridge field with the farmers. There would not be much sold.

Q What does that mean, that Great West Distributors. That is a B. A. jobber, that they do not follow the Imperial's posted prices in that district?

A Not in the Lethbridge district.

Q They are under them?

A I say they would not sell any gasoline if they did. The farmers do not pay that price for gasoline down there, in our experience.

THE CHAIRMAN: As I understand the witness, the Imperial does not follow their own.

Q MR. FRAWLEY: Your information is that the Imperial does not follow their own prices either?

A We will get you instances. I have not got it here now, but if you want it we can. They go into a farmer's yard and put the stuff in at the prices---

Q They have simply established a price to meet your competition. In other words, they have taken your price?

A Competition is very keen, and if you know anything about business you will find other people will come in and find what you are selling stuff for and if you are below them they will sell it at your price. That has been my

experience and I have been a long time in this kind of business. In other words, I am giving you the price we get for this gasoline. Do not assume we went into that country and brought the prices away down because nobody was selling it there cheaper. Farmers were drawing it over from Montana and knew what they could get gasoline for.

Q And you had to meet that?

A Different groups of farmers, we haul and sell them their gasoline and several of them were hauling their own gasoline. And there are co-operatives too that we supply in this. You cannot get big prices from co-operatives, the Imperial or nobody else, if they can get it cheaper. That is not the idea of co-operation.

Q I want to put some more figures on the record. Taking the Lethbridge district. What would be the price that you would sell regular gasoline for in the Lethbridge district to the average purchaser that was taking, say 10 drums a week, or something of that sort?

A It would be something a little over 13.25.

Q Because it would be over half way?

A It would be something over, a little over 13.25, because it would be over half way.

Q It would be about 13¼ cents, would be the price you would charge in the immediate Lethbridge district?

A It would be a little over that, it should average a little over that. There is another thing I should explain. If a man has storage for a full load of gasoline, 29 drums or 33 drums, as the case may be, he buys his gasoline cheaper than the man who has not.

Q How much cheaper?

A Probably half a cent.

H. M. Trimble.

Q Taking regular gasoline, you say the price you would ask in the Lethbridge district would be a little over 13¼ cents?

A That is what it should be.

Q For the average purchaser, and about half a cent less to the purchaser taking in tank waggon quantities?

A I would say so.

Q And for straight run gasoline in the same district?

A A little over 11 cents. 11 cents is the average price that we have averaged over the whole district, and that is a little over half way.

Q It would be a little over 11 cents for the average farmer, and how much again to the man buying in tank waggon quantities?

A Probably half a cent less.

Q And distillate to the average purchaser?

A It might be about 9.6 or 7.

Q And to a man buying in tank waggon lots?

A He would get half a cent off.

Q That is what you are actually getting in that district for your gasoline?

A Yes.

Q Have you made any money carrying on this business, Mr. Trimble?

A We have not got rich but we have made a nice living and put by a little.

Q Can you give us some idea-----

A This will work out about a cent a gallon, I would say, profit, net profit.

Q Net profit to you?

A Yes. You have .46 to take care of what should be allotted to office expenses and the expense of our man selling gasoline. Not his wages, but for upkeep of a car and that

kind of thing. We gave you the price of hauling of 1.74 and our average profit on this gasoline would amount to 3.25.

Q . Gross?

A Gross.

Q The gross average profit is 3.25?

A 3.25, and take off 1.74 or 1.75, roughly.

Q That is the average on Grade A and 3rd grade and distillate?

A I would say it would take half a cent to run the office and the man's expenses for the car, and it would leave us 1 cent profit. Probably handling 600,000 gallons in Alberta, or $6,000.00, I would say, would be roughly the profit.

Q I asked you for a financial statement for the year 1938. Were you able to make that up, of receipts and expenditures for 1938?

A I have a statement here that we gave with our income tax, but there would have to be some explanation because Saskatchewan and Alberta was all in together.

Q Let us file it?

A Well, I know but even at that, here is something you should file with it.

Q All right.

A Our trucking was in a separate account into Saskatchewan. They are both averaged there last year, roughly around 4 cents gross.

MR. FRAWLEY: Mr. Trimble files two sheets, Statement, H. M. Trimble & Sons, for 1938.

(DOCUMENT IN QUESTION IS NOW MARKED EXHIBIT "609".)

Q Now, let us see what this does show. It has, of course, got your wheat business and your truck business and

commissions on gas tax collections?

A Saskatchewan gasoline is selling entirely on a different basis. It is all sold basis Coutts, and then our hauling is separate in this altogether.

Q First let me see what it does show. This is the whole business of H. M. Trimble & Sons, and there is a small item here of income from bonds?

A Yes.

Q But a person only interested in your gasoline business, would he be able to pick it out?

A Yes. The hauling into Alberta and Saskatchewan is not separated at all

THE CHAIRMAN: Is Mr. Cottle with the Conservation Board to-day?

MR. FRAWLEY: Yes, he is, Mr. Chairman.

THE CHAIRMAN: Will he be there all day?

MR. FRAWLEY: Yes, Mr. Chairman, probably he will.

THE CHAIRMAN: It seems as if he should be here for this.

MR. FRAWLEY: Quite.

THE CHAIRMAN: I wonder if you should defer it till he is?

MR. FRAWLEY: That means deferring it to the middle of October, as Mr. Cottle is going immediately to Washington as soon as he is finished his work with the Conservation Board. He should be on his way now and he is staying to finish this work for the Conservation Board. But I think we can get along.

THE CHAIRMAN: Is he on some Sittings?

MR. FRAWLEY: Oh, yes, he is sitting. Otherwise, he would be here. No, I do not think he

would be here, he would be away.

MR. SMITH: As a matter of fact, they are holding the very Sittings that Your Lordship suggested when we were last here.

THE CHAIRMAN: I see.

MR. FRAWLEY: It is awkward that Mr. Cottle is not here.

THE CHAIRMAN: Well, you cannot help it, Mr. Frawley. I thought probably he was not here this morning but if he could be here this afternoon it might be worth while to defer this examination for an hour or two.

MR. FRAWLEY: I think we can get the information to-day. What I am anxious to do is to get this information so that the people who are interested in this man's operations will have enough before them to examine him intelligently.

MR. SMITH: And the Conservation Board have something else to do and they must do it to-day, is to deliver their judgments in some assessment appeals which were held yesterday, and I think the day before. So I do know Mr. Cottle is pretty busily engaged, I would think, to-day.

THE CHAIRMAN: Well, Mr. Frawley will have to do the best he can.

MR. FRAWLEY: Yes.

Q This shows that you had net profits in the year 1938 of $14,978.78, but, of course, there was a gross profit of twenty-one thousand odd dollars in the wheat business, and a gross profit of thirty-two thousand odd earned custom hauling with trucks, and $16,700.00 gross profits on gasoline bought and sold. And then on the second sheet you have sold in Saskatchewan certain gasoline and show a

gross profit there of 4.07 cents per gallon?

A Let me see that a minute, please, will you?

THE CHAIRMAN: Well, Mr. Frawley, can we afford to steer clear of Saskatchewan. Is not the complaint of these refiners in Alberta that if this product was not taken into Saskatchewan from Montana instead of Alberta, that they would be shipping it there?

MR. FRAWLEY: That is their complaint. But I do not propose to go over Saskatchewan and try and find the laid down cost. He is taking petroleum products into Saskatchewan, of course, in large part, more than he is into Alberta.

THE CHAIRMAN: Now, why not? If the laid down cost in Alberta is of interest, why is not it also in Saskatchewan. I am just trying to think this out now. The refiners say one of their complaints is this is brought in from Montana.

MR. FRAWLEY: In violation of the Anti-dumping Act. That is their only complaint.

THE CHAIRMAN: That is the only complaint they can have. But they may have a second suggestion that it should be cut out altogether by some other body. While it may not be termed a complaint, as I understand their position it is that it is displacing gasoline which would go to this Saskatchewan market if the Montana gasoline did not.

MR. FRAWLEY: What they say, in a word, perhaps, is if it were not for Mr. Trimble and Mr. Meltabarger, they would be able to maintain the posted prices in Southern Alberta, and it would leave them in the black instead of in the red, as they are now in the

Southern Alberta area. They say "We are in the red in Southern Alberta because of the operations of Mr. Trimble and the Texas Company in disturbing prices down there."

THE CHAIRMAN: If you are interested in these phases of Mr. Trimble's business for Alberta, all I am getting at is why aren't you equally interested with respect to what he does in Saskatchewan, because it affects the same people. Perhaps you are not, I just asked to find out.

MR. FRAWLEY: I am just trying to think to see whether I am or not. He is here and bringing the products in. He has probably disturbed the gallonage of these companies in Saskatchewan just the same as he is doing in Alberta. If the Commission is satisfied with regard to the disturbance there is in Alberta then, perhaps, it might be of interest to know there is similar disturbance in Saskatchewan, but so far as the detail of it is concerned----

THE CHAIRMAN: It is a bigger operation in Saskatchewan?

MR. FRAWLEY: Yes, a bigger operation in Saskatchewan. He is doubtless making it equally as difficult for the Imperial and the B. A. in Saskatchewan as he is in Alberta, but we do not know and I have no information about that. I have no economic line in Southern Saskatchewan, as I have in Southern Alberta, for instance. I have nothing of that sort. I do not want to be pursuing anything with Mr. Trimble that I have not pursued with the major companies. That is the only thing that occurred to me.

THE CHAIRMAN: It is touching the crude oil production, the throughput of the refiners, and the

throughput of the pipe line?

MR. FRAWLEY: It is affecting all that.

THE CHAIRMAN: What you are getting from Mr. Trimble, what thing are you getting at?

MR. FRAWLEY: That is a fair question. I was not very much concerned with Mr. Trimble, but I wanted to give everybody an opportunity to examine him. I was thinking of leaving Mr. Trimble out, as a result of our desire to compress our work. But at Mr. Harvie's request particularly I brought Mr. Trimble here. I think Mr. Harvie has some concern, as did Mr. Miller, in demonstrating to this Commission that Mr. Trimble was violating the Dominion regulations. I think that is the principal reason for this evidence. Otherwise, Mr. Cottle has found the situation as it is in Southern Alberta, and he finds that the Imperial Oil in that Southern part is losing so much money, and Mr. Harvie's client is losing so much money in dollars and cents. Why are they losing that money? Because the gasoline is coming in from Montana and because the competition is too keen and they have to put down the prices which would otherwise be higher. Mr. Smith's clients are here and it is well for them to understand the position. If there was no gasoline coming in from Montana at all the price at Lethbridge would not be 17.7. It would be something much greater than that. It would be the Calgary price plus freight, as it is in Edmonton. Edmonton is Calgary plus freight. Lethbridge would be Calgary plus freight. Why? Because of Mr. Trimble and the others importing from Montana it is upsetting the major companies.

MR. NOLAN: I wonder if that is quite right. We are talking about costs and refiners. The fact is that

every gallon of gasoline that Mr. Trimble sells in this Province is one less gallon produced from Turner Valley crude, and one of the reasons this Commission is sitting is to enquire into the market for the crude from Turner Valley. Now, whether the Imperial sells at one price or another, the price is only part of this picture that Mr. Trimble brings before us. I think that we are equally as interested in what he does in Saskatchewan as we are in what he does in Alberta from the point of view of the fellow that is producing oil in Turner Valley and is not getting that market.

MR. FRAWLEY: Of course, we are interested, but after he states it what further must I or should I do, because I want to do everything I should do. What further must I do?

THE CHAIRMAN: I suggest we could find out what he took into Saskatchewan and at what price he sold it. He has told you the price he buys at and what he sells it at here. How much it is. What it costs him to do business. I suppose Mr. Trimble has all this.

MR. FRAWLEY: If he has I will ask him and I will pursue the same examination exactly. Can you give me the same information?

A I can make that for Saskatchewan very brief.

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Q Well what can you tell me about Saskatchewan?

THE CHAIRMAN: That will be best.

A And I aim to put on a half a cent on that gasoline over and above the cost at Coutts for my buying in the quantities I do at any Co-operative, I only supply two Co-operatives in Saskatchewan, wholesale Co-operatives, there are five of them altogether and I aim to add a half a cent.

Q What do you mean by that, that you aim to add a half a cent?

A Half a cent over and above the costs at Coutts. If this stuff costs 10¼ we will invoice it out at 10.75.

Q To the Saskatchewan business?

A To the Saskatchewan business.

Q Who takes care of getting it there?

A Then we do the trucking.

Q Yes?

A And if we hire trucks, if we have not got enough trucks of our own we hire them and we pay them the same price as we truck. Now just what we make on that trucking I am not prepared to tell you today, but if we hire them, as we have to in the Spring or Fall, we have not enough of our own trucks to keep going during the busy season of the year, so all we have in that case is only the half cent a gallon but we make something on our own trucks.

Q In other words that is just a trucking proposition?

A The Saskatchewan business is a trucking proposition,

exactly.

Q Except the half cent?

A Yes.

Q Then give us the gallonage for the Saskatchewan business?

A Well-----

Q Roughly?

A Well I could give you, there would be, I might not have been able to give that, but I think he will do a little better than a million and a half in the two Provinces.

Q You think you will do a little better than a million and a half gallons in the two Provinces?

A Yes.

Q And can you divide it up?

A There would approximately be 55% anyway in Saskatchewan, that is a little over half.

Q A little over half in Saskatchewan?

A Yes.

Q Now it might be of interest, if you have only five of them, will you tell us the five Co-operatives who are your customers?

A Yes, Hughton Co-operative, Hughton.

Q That is at Hughton, Saskatchewan?

A Yes. The Kyle Co-operative, at Kyle; the Cabrai Co-operative at Cabrai; the Hazlett Co-operative at Hazlett; The Pioneer Co-operative at Swift Current.

Q And it is all a wholesale proposition?

A Yes, all a wholesale proposition.

Q Now you are interested in, you have no particular in-

terest in these Montana refineries?

A None at all.

Q And you are simply interested in what profit can be made in buying and selling gasoline?

A Yes.

Q Did you ever canvass the possibilities of carrying on the same business which you are but taking your supplies from Alberta refineries?

A I have.

Q And what attempt have you made?

A I couldn't get the Montana prices, they would not meet them or near meet them.

Q What approach did you make, whom did you approach?

A I have probably tried more with the Gas and Oils than any other company.

Q They are a company manufacturing gasoline in Turner Valley?

A Yes.

Q And well have you, can I say, can I put it to you that you have seriously endeavoured to enter into business relations with them?

A I have.

Q And you couldn't do that because they wouldn't meet the price you were getting?

A But I might say here that there are products going into Saskatchewan around where I am selling that they must have bought it at about the same price that I bought it in Montana.

Q Products coming from where, going in?

A From Turner Valley and Calgary.

Q There are Alberta products going in?

A That must have been bought at about that price because I know what it costs to haul them and I cannot sell my products against them.

Q In other words you say that some of the Alberta refineries must be selling----

A They must be getting down close to these Montana prices, that is what I want to say.

Q I suppose perhaps it would not be unfair to say that the fact that you are there with the Montana product forces them down, does it not?

A I would not say that altogether. It is a question of competition all around.

Q Yes?

A They do not come down where there is no competition, I can tell you that.

Q But it is still possible that you force them down, I am not saying that accusingly, it may be that your prices force them down?

A I expect they do and I have no excuse to offer for that.

Q No. Now it certainly has been suggested where you, where you or somebody else, that there have been some violations of the anti-dumping laws?

A Yes.

Q In other words, put very briefly, that the Montana refineries are selling to you at a certain price, the 5 cents, and that they are selling, this third-structure gasoline, it has been suggested that there is a violation of the Dominion Regulations, Customs

Regulations----

A Yes.

Q In that the refineries, these particular refineries, take yours, the Big West Company, is selling to you at 5 cents for third-structure gasoline but selling to somebody else like you, for home consumption in the State of Montana at more than 5 cents and let us assume for the moment if that were so, if they were selling to you for export to Alberta at 5 cents and selling to somebody like you in Montana for more than 5 cents, let us assume that, without arguing it, that that would be a violation of the Anti-dumping Laws?

A Yes.

Q What do you say about that?

A They are selling in quantities at less than I buy, as cheap or cheaper than we buy, the same company.

Q Yes, now, selling to whom?

A I will not say on Straight Run Gasoline they are selling it cheap but grade A they are selling cheaper.

Q They are selling grade A for home consumption in Montana---

A Montana and the States adjoining Montana.

Q In the United States?

A Yes.

Q At less than 7 cents a gallon?

A Yes.

Q Do you know to whom they are selling at less than 7 cents?

A No, I did get a name or two but I didn't put it down, I have disucssed it with the company.

Q With your company?

A Yes, with the head salesman.

Q And they told you they were selling at less than 7 cents?

A I know they were selling at less than 7 cents. We should probably have bought at less but I think 5 cents is about as low as they are selling the straight run.

Q Do you know they are selling the straight run also to anybody?

A No, not at a lower price.

Q Do you know that they are selling as low as 5 cents?

A Yes.

Q In the United States?

A Yes.

Q This is what was suggested against you, the British American Oil Company filed an Exhibit, I have not got the number, but it was a memorandum by Mr. F. C. Dempsey who went down into Montana and made inquiries for them?

A And talked to the Big West Company?

Q Yes. Well you do not buy any leaded gasoline do you?

A No.

Q I am afraid the only information they had there was as to leaded gasoline but there may be something else----

THE CHAIRMAN: Oh, grade A gasoline is what then?

A It is not a leaded gasoline, the Big West----

THE CHAIRMAN: It is comparable with what?

Q MR. FRAWLEY: You said a moment ago it was an octane number of what?

A Around 71.

Q Then on that evidence it is comparable with Three-Star Gasoline and with Nevr-Nox Gasoline, regular gasoline

in this Province but which of course is leaded?

Q MAJOR LIPSETT: Is there any lead at all in that grade A?

A Grade A they call that.

Q Is there any lead in that?

A No.

Q THE CHAIRMAN: No lead?

A No lead in it, their gas is not leaded.

MR. FRAWLEY: It couldn't leave Montana if it was. The Ethyl Corporation is the only company that has the say as to that, and the Ethyl Corporation told us all about that. You cannot buy leaded products and bring them into Alberta?

A No.

MAJOR LIPSETT: It is not comparable then, Mr. Frawley, with the Three-Star?

MR. FRAWLEY: Oh yes, as to octane.

MAJOR LIPSETT: But not leaded?

MR. FRAWLEY: Speaking practically, speaking generally, it is. The Three-Star has an octane of about 70 I think or 71 or so. If the other specifications are not kept it would be regular gasoline. There are thousands of gallons of gasoline, Mr. Commissioner, sold in the United States, Standard Regular gasoline with not an ounce of lead in it, not a drop.

MAJOR LIPSETT: I am just trying to compare the B. A.'s.

THE CHAIRMAN: You were speaking of Standard gasolines. Has Professor Stansfield gone?

MR. FRAWLEY: I am afraid he has gone.

THE CHAIRMAN: I was just wondering if he is going by the octane machine entirely and disregarding the leaded product.

MR. FRAWLEY: Put that again please, Mr. Chairman.

THE CHAIRMAN: He was speaking of having a machine now that will work out the octane number and so on.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And that he would be prepared to grade gasoline but we should perhaps have inquired whether or not there should not be a distinction between leaded and non-leaded products. For instance, you are saying these two are comparable. Would it be safe to say that to the public, that they are the same thing?

MR. FRAWLEY: The lead is only to take care of the octane numbers.

THE CHAIRMAN: That is its sole purpose?

MR. FRAWLEY: I think that is a fair way of saying it. I am right about that, Mr. Meltabarger?

MR. MELTABARGER: Yes.

MR. FRAWLEY: It is to take care of the octane number. The octane number is language used to distinguish its non-knock character.

THE CHAIRMAN: Oh. It has no characteristics other than that?

MR. FRAWLEY: There are a lot of other characteristics but the octane does not relate to them at all. It has an end point and a beginning point but

that is quite apart from the octane number; in other words, to put it roughly, there are two ways of bringing up the octane number; one by further refining processes, reforming, re-cracking and so on, that is one way and the other is adding lead.

THE CHAIRMAN: Yes. I certainly had the impression from what the Ethyl people said that you couldn't get the same results in a high compression engine from a gasoline that is not leaded even although it is of a higher octane.

MR. FRAWLEY: Oh no.

THE CHAIRMAN: You say that is not a right impression?

MR. FRAWLEY: No, that is a wrong impression. There is a company in the United States, the Sun Oil Company, with a very wide distribution, a very large company, and they have no Ethyl products, and then the Shell Company in large part I think, I think some of the Shell Gasoline is now leaded but in large part I understand it is not.

MR. MELTABARGER: That is only on the Q brand.

MR. FRAWLEY: We are speaking of Q brand now. I think you can never get that high octane that is present in Ethyl gasolines without lead.

THE CHAIRMAN: That is what I am thinking about.

MR. FRAWLEY: We are only talking, that is why we are talking about regular gasoline. You cannot draw the line there, Mr. Trimble is not in the premium gasoline business at all.

THE CHAIRMAN: The only line you can draw

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is that the Ethyl Corporation is more particular about the specifications for gasoline before the lead is added and is that not all, the difference between Ethyl and what you call leaded gasoline, is that not all the difference?

MR. FRAWLEY: No. The base stock is there, you add so much lead and you get regular gasoline and you add more lead and you get Ethyl gasoline. There is nothing wrong with that.

THE CHAIRMAN: Plus your conforming to much more stringent Ethyl Company requirements with respect to the balance of your products other than leaded.

MR. PLOTKINS: You see the distinction, Mr. Frawley, is this, that because of the limitations the base stock of the premium gasoline must be of a much better quality.

MR. FRAWLEY: Yes but frankly I was not concerned with this premium product at all. Mr. Trimble does not deal with that. I was going to say he does not know anything about it but anyway he does not deal with that and it does not enter into the picture but he does bring in regular gasoline which competes with my friend's Three-Star and Nevr-Nox.

THE CHAIRMAN: I am sorry to interrupt you but you have been speaking about grading quite recently and it was going through my mind if anything is to be done about that, whether there should not be a marked distinction between leaded and non-leaded gasolines and that is why I asked the witness's attention be drawn to it.

MR. PLOTKINS: There is this fact, that the Ethyl Corporation insist on the plate which says "This product is leaded." Now that is the only distinction.

MR. FRAWLEY: That is because the Surgeon General of the United States says it is necessary for health's sake and that is all.

THE CHAIRMAN: Well all right.

Q MR. PLOTKINS: Would the proper question to Mr. Trimble be this, does this product of the grade A effectively compete with standard gasoline of any other refinery or brands in Alberta?

A I think so. We think it is fully as good a gas.

Q It does, so therefore it is competitive?

A Oh, we are not gas experts but when we have the choice to put it in our own trucks we take the non-leaded gasoline with the same octane.

MR. FRAWLEY: Now I do not know that there is any use of pursuing this further----

THE CHAIRMAN: Pardon me once more and I will not bother you further. Grade A, do I understand it is the same, you compare it with Three-Star?

MR. FRAWLEY: Yes.

THE CHAIRMAN: And is it also the same as the Q brand of which we have heard?

MR. FRAWLEY: The Three-Star is the Q brand, all the Q brands, I think you might say.

THE CHAIRMAN: All right, thank you.

Q MR. FRAWLEY: By the way, speaking about this, I asked you to get from the refinery the

specifications of these gasolines. Perhaps you have that here and it will save all this discussion?

A I have not got it as a matter of fact.

Q You have not got it?

A Probably I did get them one time but I have not got them with me but this gasoline sells on the American market as standard gasoline so far as that is concerned.

Q I am not questioning it but I would like to complete the record?

A I can get them and give them to you.

Q I wish you would?

A All right.

Q Now what do you say, have you anything more to say with regard to the suggestion made that you are bringing that gasoline in in violation of the Dominion Customs Regulations?

A Well I would say further that there are several refineries selling these gasolines in Montana to their farmers there, if they go to the refinery, just as cheap by the load as we are buying it, that is what we call Straight Run Gasoline. These small refineries are selling that at 5 cents, the same as I can buy in quantities.

Q Let me put this information to you, because it is very much in point, Mr. Dempsey, the British American's witness, said the information he got on the 5th , 6th and 7th of June of this year was that the Cutbank Refining Company was selling Straight Run, that is the third-structure gasoline, the North West Refining

Company rather,----

A Oh yes.

Q At Cutbank, was selling to the farmers Equity Co-operative at Brady, Montana, Third-Structure Gasoline at 8.5 cents, U. S. gallons?

A Was it delivered at Brady?

Q F.O.B. Brady?

A Well I do not know what the cost would be on getting it from Cutbank to Brady at all. That would not be any comparison.

Q That is your answer to that, and that the Home Refining Company in Conrad, Montana, was selling Third-Structure gasoline to the Farmers Co-operative Oil Supply Company at Conrad, Montana at 9.5 cents, F.O.B. Conrad?

A They were selling it at Conrad.

Q They were selling it F.O.B. Conrad to this Co-operative at 9.5 cents, what do you say about that?

A Where is this refined, is the Conrad plant running this year?

Q That is the information which Mr. Dempsey gave, buying from the Home Refining Company, Conrad, the price is F.O.B. Conrad, 9½ cents for Third-Strcture gasoline?

A I do not know what they are selling it for. I know I did not go as far down as Conrad when I made these inquiries.

MR. METCALFE: May I suggest, the Conrad Refinery is not running. It was shipping it from Great Falls.

WITNESS: I went to three or four of them, I went to the Hannah Porter just west of Coutts,

Sweet Grass, six miles and of course we bought stuff there this year and we knew.

Q Here is another one now, just attend to this one, Mr. Dempsey also said that the Farmers' Equity Co-operative at Brady, Montana, was buying from the North West Refining Company at Cutbank, F. O. B. Brady, standard, non-leaded gasoline, that is your product?

A Yes.

Q 10½ cents F. O. B. Brady, what is your comment on that?

A Well it would be very cheap, it would be away cheaper than our price, would it not?

Q Why do you say that?

A It must be something to get it from Cutbank to Brady and ours is 10.25 right at the refinery.

Q I think I have covered everything I wish. I will turn the witness over to my learned friend; however, there is just one more thing, Mr. Trimble, we have been told and it might have a bearing upon this matter, that the Alberta farmer that has nothing but a big truck and some empty barrels can go down to the Big West Refinery or any other refinery, Montana Refinery and buy at refinery door prices, so long as they know that he is from Canada and he is going to take it back into Canada, but that the Montana farmer, trying to do the same thing exactly, go to the refinery door and buy at the refinery door prices would be refused any such prices, now what do you say about that?

A I have gone to several of the refineries there. Now the refinery we deal with, the farmer cannot truck it away from there in the States because they have an agreement

that there will be no trucking. Their stuff will all go over the railway. They sell what they call their "bottoms" to the railways and for that reason they do not allow trucking; the same with the Texaco I believe in the United States does not truck anything either and for that reason. In return for that the Texaco get a lot of lubricating oil from the railways, that is the reason why they do not allow trucking but where they allow trucking, several refineries I visited in Montana to find out this very thing, they did not make any difference whether you came from Florida or whether you came from the Artic Circle or whether you were an American or a Canadian or not. The American farmer buys his gas at the same price as the Canadian farmer and he has no duty or sales tax to pay on it, and I will give you the refineries I visited, Hannah Porter, just West of Sweet Grass and then there is another refinery East of Kevin, East of the Big West, I forget the name of it now.

Q Oilmont?

A No, I didn't go into Oilmont but you will them the same, this is one south of Oilmont and another in Selby, a nice little refinery there, they make no difference at all, never ask where you come from.

Q How about the Big West?

A They cannot truck stuff there as I told you.

Q There is a difference there?

A There is no trucking allowed in the States because they sell their bottoms to the railways.

Q Yes. Now then tell me this, a Canadian, just following up what you said, a Canadian farmer going down to buy,

oh just a stake truck load of products in barrels and he wanted this third-structure gasoline, what would he pay at the refinery as against your 5 cents?

A I think about a cent and a half more, I think that is it.

Q 6½?

A I think so.

Q And what would he pay for the products you pay 7cents for?

A 6½.

Q And distillate he would pay?

A Well he would pay at least a cent and a half more.

Q And what you say is, you get these prices because you go down there and you say "I want to do a million gallons worth of business and I want a price"?

A Yes.

Q And you say there are other people in Montana doing business comparable with yours and they get as good a price as you do or better?

A In the United States, that is it. They sell all kinds of gasoline outside of Montana.

Q You do not know that they get any better but you are satisfied they get as good a price as yours?

A Yes, they get a better on the grade A.

Q Did you say that other people paid less than 7 cents?

A Yes, I believe so. I believe there is all kinds of gasoline from Big West and other refineries selling for less than 7 cents. Take the gasoline the Government of Montana is buying, have you had any of those reports.

Q I have looked at them, Mr. Trimble?

A They are not paying that much for their gasoline.

Q Why have you not----

A Getting it on bid.

Q Why have you not gone back and complained, I suppose it is just business, you have not gone back to cry about your bargain , you still pay 7 cents?

A Yes.

MR. FRAWLEY: That is all.

THE CHAIRMAN: Any questions?

MR. PLOTKINS: I would like to ask Mr. Trimble a question or two.

THE CHAIRMAN: All right.

Q MR. PLOTKINS: Mr. Trimble, can you tell us the price, the average price in the Lethbridge district?

A Our average price?

Q The average seller's price of your grade A.

A No, I will not attempt to get down to details of what we get here and there, I am giving you the general average.

Q So the general average does not mean very much when it comes to any particular point?

A You understand Mr. Plotkins, Co-operatives buy much cheaper.

Q True?

A And other big people buy much cheaper and if a man comes along for instance and wants one of our big customers bad enough to put it down a quarter of a cent we will drop it down a quarter of a cent too to

meet that competition but the actual price, they may tell you the best price but that is not what gasoline is selling for. I am giving you the average from our books, what we sold it for in May and June.

Q Mr. Trimble, I am not quarrelling with you?

A Yes, you understand me.

Q You have a definite price to somebody in Lethbridge?

A I do not know----

Q What is that?

A I do not know what price that pump is paying us there.

Q The farmer?

A No, I have not got it here with me and I do not know.

Q MR. FRAWLEY: 13¼ cents?

MR. PLOTKINS: F.O.B. the Lethbridge district but the farmer.

MR. FRAWLEY: The farmer put into his barrel, a little better than 13¼ cents and if he is buying in tank waggon quantities a little cheaper than half a cent less.

MAJOR LIPSETT: That 13¼ cents is the average.

MR. PLOTKINS: No, but being specific Mr. Trimble said that his price to a farmer in the Lethbridge district would be a little more than 13¼ cents and a good way to find that out, we would have to get down to cases?

A Yes.

Q We would either have to bring your son from Lethbridge or bring a farmer from Lethbridge to see in fact what

he pays you?

A Yes.

Q But you are satisfied it is a little more than 13¼ cents?

A It would be on an average, you understand. 13¼ cents is the average of 150 miles haul and the further we haul the more it is going to cost.

Q Supposing we brought Mr. Brown, a customer?

A Yes.

Q Right out at his farm and brought him into this witness box, he would not be paying the average, he would have a price?

A Yes, but I have not got any of those specific cases.

Q The average would include a 40 mile haul as well as a 150 mile haul?

A Yes.

Q It is only an average?

A That is the average price and that is all I am giving to you today.

Q So you cannot give us your definite figures?

A No.

Q What is the average purchase price, we have it, it is 10¼, is it, the average purchase price on Grade A gasoline is 10.252?

A Yes.

Q Now what is your average selling price?

MR. FRAWLEY: Exclusive of hauling.

Q Yes?

A Exclusive of hauling, I cannot give you that at all, oh yes, I gave you that, not including hauling yes.

Q 10.25----

A I gave you the average selling price.

Q Never mind the average selling price, including hauling?

A It is 13.25.

Q So we have the gross price?

A Take off your average 1.74 as I gave you for hauling.

(Go to number 13,462)

H. M. Trimble

Q 10.252¢ is your cost. There is no dispute that Grade A costs you that?

A Yes.

Q You say that your average selling price for the same grade product delivered is 13.25¢?

A Yes.

Q What do you say your average expense was for selling?

A For Hauling, trucking?

Q No for selling?

A I was assuming it would be around $\frac{1}{2}$¢.

Q What is your average cost of trucking?

A 1.745¢.

Q And that selling and trucking includes everything that you do outside of administration?

A That would include our office expense.

Q Oh it includes office expense.

A Sure, that is what that $\frac{1}{2}$¢ is for. You are getting at the net price and that is it. It leaves about a cent net does it not.

Q How do you arrive at the $\frac{1}{2}$¢? On what basis? Is that a guess?

A I am not definite on that.

Q You do not know for sure whether it costs you $\frac{1}{2}$¢ or whether it costs you 1¢?

A No. As a friend of mine said not to vulgar fractions. I have not got it that fine at all.

Q You do not know whether your profits are derived from the gasoline business or the other business?

A Yes I have been in business too long to keep in a business that is not paying.

H. M. Trimble

Q Unless you have all the figures to show what your costs are how can you tell?

A I know roughly it would be ½¢.

Q You mean you have a good idea?

A Absolutely. That is all I can tell you it costs to run the office and the expenses of a car in the country.

MR. COMMISSIONER LIPSETT: That only seems to leave you ⅜¢ ?

A I did not get that.

Q The figures you give seem to only leave you ⅜¢ per gallon profit?

A About a cent I think.

MR. PLOTKINS: It figures out exactly at 2.245 made up of 1.745 for trucking and half a cent for administration?

A Yes.

Q And the spread between your cost at 10.252 and your average selling price of 13.25 ?

A Is 3.25. I have it here 3.25¢.

Q Is that correct. Your cost price is 10.252?

A Sure it is correct.

Q Is it correct that your average selling price is 13.25¢?

A That leaves 3¢.

Q Yes that leaves 3¢, that is right?

A Yes that is right.

Q And cost of administration and selling is ½¢ and the trucking cost is 1.745¢. It would not leave a cent.

A That means ⅜¢.

Q Is it not reasonable to say because you are engaged in other activities and to a great extent in other activities that you do in fact allocate your selling and administration expenses arbitrarily?

A No I would not say that.

Q How would you say the opposite then? How can you say that you definitely have a cost of $\frac{1}{2}$¢ unless you were running it separately?

A In the first place the expenses at Lethbridge, two-thirds would be in connection with gasoline.

Q That is only an arbitrary division?

A Well roughly.

Q A rough arbitrary division? So that you could carry on even though there were no profits, you could carry on your activities out of your other gross margins?

A If there was no grain business?

Q No. If there were a grain business and if you continued your present activities in the grain business and conditions were such that you had to, instead of getting a 3¢ spread between your cost and your average returns, you had it down to $2\frac{1}{2}$¢ and did not allow anything for selling and administration you could still carry on?

A Well we would not likely do. We would be looking for something else.

Q It is true you could still carry on. You would be in a financial position to carry on?

A State that again. What is your assumption? How much profit would we have?

Q I am not worrying about profit. All I am saying is this, because you are engaged in the grain business and you use your trucks in the grain business as well as in the oil business?

A All right.

Q And because the same set of men handle the grain business as well as the oil business if tomorrow the prices were increased by the Big West from 10.25 to 10.75 - and probably they are due to this exchange - you would not discontinue operations?

A No we would raise the price to the farmer.

Q But suppose competition would not let you?

A Then we will quit.

Q Can you quit. Would you just quit?

A If we were not making any money what is the use of worrying.

Q Are you in that position that you could just let it down?

A I think we did raise the price to the farmers since the exchange went up.

Q Now in regard to these drums. The Commission is anxious to get as much information as possible on these drums. There is a distinction that you do make between a light drum and a heavy drum?

A Yes certainly.

Q There is a law on the Statute Books of this country of Canada where we cannot ship by railroad a light drum full of gasoline or any light petroleum derivatives?

A Filled with gasoline yes.

Q Yes you know that?

A No I do not know that I do. I never tried it.

Q One type of drum, the heavy barrel is called the I.C.C. drum and the reason it is called the I. C.C. drum is it originated in the States and the Inter-State Commerce Commission type. In other words in the United States the Inter-state Commerce Commission decreed that it took a certain drum of a certain weight and so forth in order to ship gasoline by railroad

and the reason for it was that it had to be heavy enough to stand the traffic and rough-handling that it would get on the railroad. You know that do you?

A Well I do not know. I do not know what you are driving at. I do not know the facts. I do not know what you are driving at. If you will ask a question I will answer you.

Q These light drums, will the railroad accept them ?

A Empty.

Q Filled with gasoline.

A I never tried to ship them full of gasoline, heavy or light drums, as far as that is concerned. I do not know.

Q With regard to prices in the south country, is it not a fact Mr. Trimble, that the tank wagon, the published tank wagon of the Imperial Oil is the price at which business moves in the main?

A In Southern Alberta.

Q In southern Alberta?

A No, decidedly not.

Q It is not your opinion it is only where they have to meet competition that the price is actually dropped?

A No.

Q You believe then that the farmer shall we say in the Taber district coming in to the Imperial Oil bulk station and buying one drum of third grade gasoline does not pay --

A Now that would take a lot of these single drums to make the bulk of the business. I do not know what they pay for a drum. What I am getting at is what the farmer is paying out on his farm.

Q What you mean is that the Imperial and the British American and the other companies, and the Artic and

and so forth have to meet the type of competition you have created. In other words in order to retain or keep their share of the business of that type of farmer who is able to buy in truck loads or part truck loads?

A I think it was created before we ever started there. However, I admit it is the American gas that is putting the farmers gas down in that country.

Q True and what the Line companies are doing, they are only disturbing their published tank wagon prices where conditions are such that they have to meet somebody else's competition?

A Yes. I find that in Saskatchewan they will keep their prices up only where there is competition.

Q So that the true facts are that only where there is competition from you or somebody like you, or other people --

MR. FRAWLEY: Or you.

MR. PIOTKINS: We are not in the south country.

Q The companies legitimately meet that competition?

A Sure.

Q So that the tank wagon is the price at which the average farmer, buying one drum or more, pays to the local agent.

A I do not know that. I won't answer that as I do not know it.

Q What definite basis of prices do you follow in the district. How do you arrive at your selling price?

A I cannot tell you that. I have not been in that business myself at all. I run the Saskatchewan business.

Q Is there a definite basis? Do you know if your organ-

ization calculates and arrives at a definite selling price for any given district?

A This was just general.

Q No I do not mean generally. You do not sell gas generally you sell it at a given spot to a given party and in a given quantity. Hasn't your organization calculated what you are prepared to give instructions to your men to sell at?

A No we would have to inspect our books, I am sorry, in Lethbridge, to get that. what they are prepared to sell at. I have nothing to do with the retail business. I cannot tell you. I am just giving you the prices it was sold at in the two big months of May and June.

Q You, as head of the organization, do not enter into with Accountantcy with your Sons and other people interested to arrive at a selling price at a given point?

A No.

Q You just leave that to them?

A Yes.

Q Now owing to the fact that you are in the grain business does it not give you an advantage in dealing with that particular type of farmer. What I mean is do you advance money as against grain purchases, that would facilitate the sale of gasoline to that particular farmer?

A Very little, practically none.

Q You are in a position to do that?

A Just answering that question, we did load about one hundred thousand bushels of grain in the district we were selling gasoline but both my boys today are in and around Drumheller, Acme and Three Hills buying grain. We have not a truck of our own drawing grain. They are all drawing gasoline.

Q In the main you do not advance money for the farmer to buy gasoline from you?

A No we advance less money for grain than any other track buyer that I know of. We do not make a practice of that.

Q But do you give them gasoline as against future grain deliveries?

A Yes we have done that.

Q And in effect it amounts to the same thing?

A Yes we give credit.

Q Yes?

A Yes but we would give credit if we did not get the grain, to the right kind of farmer.

Q Do you carry him over until the next spring?

A We do not aim to carry a man over the summer at all.

Q But you are prepared to deliver gasoline, whatever he wants and wait until his crop is threshed and take delivery of the wheat?

A Not on account of his grain. I do not consider a man has grain until it is in the shock or in the bin.

Q But you give him gas before it is in the bin?

A Not if I do not think he is the kind of man who would pay for it if he did not get his grain.

Q The facts are in July when he is ready to cut his crop, if he is a responsible party and you have had experience with him before?

A Yes we will give him credit.

Q You will give him all the gas and oil he needs and wait till his grain is threshed?

A We give him credit. Very little compared with other companies.

MR. FRALEY: Mr. Trimble, have you had any

dealings with the Customs Department. Has any Customs official come to you and questioned your imports at all?

A No. I have talked with them myself when I have been going through there.

Q What seems to be the situation as to whether you are or are not breaking the law?

A Well I do not think that ever came up, because he is not in a position to know. I do not know that he ever goes down and investigates what these companies are selling for to other people. Of course I do not know whether he does or not you understand.

Q He takes your invoices and passes your invoices.

A Absolutely.

Q Your invoice shows in one column what you actually pay and then it shows the fair price for home consumption does it not?

A Yes.

Q And they always have the same figures and are always the same price? The invoices are made up in the Refinery?

A Yes made up by the Refinery.

Q So the Customs man at Coutts he is taking the word of the Montana Refinery that he is selling to you at a fair, the price at which he is selling to you is the fair price for home consumption?

A I think so. I think he would have to do that with pretty near any goods that comes to the line.

Q You have never had any Inspectors come out and look at your books .

A No.

Q And accuse you or investigate you from the standpoint of dumping duties?

A No.

Q You say a million and a half you expect to deal in this year. Can you divide that up into grade A and straight run gasoline and the tractor distillate?

A We do not handle as much grade A as other people because ours is farmer business. We would handle more straight run than anything.

Q That is your big product?

A Yes.

Q What would you say out of a million and a half your straight run would be?

A In Saskatchewan I would say 65% would be straight run.

Q What about Alberta?

A It may not be that much. It would be 60% or more.

Q And of the rest grade A would be what part of the forty per cent?

A Grade A is about - it is now used in high compression tractors but as I told you we have no filling station and consequently we do not use the grade A that other people do. And we do not sell much distillate.

MR. HARVEY: It is really impossible to break down that million and a half gallons into the three products?

A It would be hard. Well I could you understand if I would go home to my books. I could break down my Saskatchewan in five minutes. It all shows in my books.

Q You have given us your figures as far as prices and quantities for 1939. Have you got them for 1938?

A No I have not.

Q I wonder if we could obtain those, because after all they are the figures that are comparable with other figures that have been used by the inquiry.

A What figures would you like.

Q I would like the quantity imported of each of the products.

A For all our imports, Saskatchewan and Alberta both?

Q Yes for 1938, and then again divided into Saskatchewan and Alberta.

A 1938 and how much went to each Province.

Q Yes, and each product.

MR. FRAWLEY: Let me put on the record some information contained in a letter from Mr. Trimble dated the 7th of January 1939. On that date you advised me that the total gallons of gasoline handled in 1937 --

A That would not be a fair comparison. It should be later than that.

MR. HARVEY: What products were you dealing in in 1938.

A The same products.

Q What were the prices?

A I cannot tell you that.

Q You could supply that?

A I could get it, yes.

Q And you will? Now in 1939 you made your agreement for the purchase of your product from this one refinery in the spring of the year and it is for your entire requirements for the year 1939?

A Yes

Q And was on the basis of 7¢ for grade A and 5¢ for straight run and 4½¢ for such distillate you do buy. Did you buy from the same refinery in 1938?

A From the same Refinery?

Q Yes.

A I believe we bought some from the Home Oil that year too.

Q Did you have any contract with any Refinery?

A With the Home Oil. We did but I would not be sure whether it was 1937 or 1938.

Q You could give that information to Mr. Frawley?

A Yes.

Q In other words I would like the same information for 1938 that you have been good enough to give it for 1939. Did you have a contract with any other then Home Oil during 1938?

A No. The Home Oil Company. We had a contract once with the Cutbank but they ran out of supplies. That is the time we went to the Home Oil.

Q Did you deal with the Big West in 1938 to any extent.

A We did some but I would not say all through 1938. We were dealing with them the latter part of 1938 I am sure.

Q Did you have any similar arrangement with them in 1938?

A A gentlemans agreement at that time.

Q What were the terms of that agreement.

A I cannot tell you I will have to give you that later.

Q You will give us that?

A Yes.

Q As I understand it you say that, we will speak of Grade A and your dealings with the Big West for the 1939. In the first instance your contract price was 7¢?

A Yes.

Q F.O.B. their refinery?

A Yes.

Q And just for the purposes of the record where is their Refinery, right in Kevin.

A Right in Kevin.

Q You also say that it is possible to get the information that that company has been in the practice of selling to other purchasers for Montana consumption at less than 7¢?

A I believe that, for United States consumption.

Q Yes. Can you give us any illustrations?

A No.

Q Would you be able to supply that. Can you give us any information?

A I would not say that.

Q What makes you think that is the case then?

A Well the evidence I have had all summer, off on on, if you understand me. If you have your ears open you find out things.

Q You mentioned they were possibly selling lower than that to the state of Montana?

A No I do not think they are getting any of that. Other companies are below them. Not lately, they might have at one time.

Q What type of purchaser do you think it is that buys at less than 7¢.

A Any big purchaser who handles a lot of gasoline.

Q A purchaser with a million gallons would be considered a big purchaser?

A Well it might not require a quarter of that. He might be able to buy one hundred thousand gallons.

Q Have you ever tried to buy at less than 7¢ from them?

A No.

Q You are a pretty shrewd buyer Mr. Trimble?

A I expect if you let me run next year and crude does not go up that I will because I think I pay a little too much for

that product.

Q Is there any such thing as a quantity discount?

A Discount.

Q Yes.

A Not to me. Our price is straight and no discount.

Q Why did you more or less contract for one million gallons if you did not have to in order to get that price?

A Why did I?

Q Yes.

A One would naturally expect to get a price if we contract enough and we expect to be supplied with the stuff when we need it. On two occasions when we did not have a definite gentlemans agreement they ran out of stuff and we had to hunt for stuff in the middle of the season.

Q It is rather to get an assurance of supplies?

A That is one big item and the other is a better price.

Q You have never contemplated and never directly or indirectly received anything that would reduce that price of 7¢?

A No, not if we took two million gallons, there would not be any reduction.

Q But do you get any services or any bonus.

A No. That is all definite.

Q You say that you do anticipate that the coming year you might do better?

A I think we should do better. There is another thing I should mention. We should really buy our gasoline cheaper than a similar man in the United States, because they keep the travellers out to sell him his gas all the time. They do not spend a cent on us in the way of

up the gas and we pay the money. In the other case they have men out on the road all the time and it is costing them some money.

Q When will you be able to give us this information Mr. Trimble? How soon?

A Well the Lethbridge information is in the office in Lethbridge. The Saskatchewan information I can give you this afternoon.

Q You could have the whole thing say by maybe the beginning of the week?

A We have a ledger here too that might have last years sales in. Oh yes the middle of next week.

Q By the beginning of next week?

A I think so.

MR. HARVEY: Mr. Chairman, I would like to have that information before I continue on that.

THE CHAIRMAN: You want Mr. Trimble to come back?

MR. HARVEY: Well if he supplied it to Mr. Frawley and if I have it there may be no examination with respect to it. I cannot tell until I see it.

MR. FRAWLEY: You mean the 1938 prices?

MR. HARVEY: Yes and the quantities and from whom purchased and any contracts or arrangements.

MR. FRAWLEY: You could go back and duplicate the information you gave us this morning and use the 1938 figures?

A Yes.

THE CHAIRMAN: You had better arrange concretely to have it at a certain time.

MR. FRAWLEY: You could do it right away?

A If we had the information in this office - but I may have to get some information from Lethbridge. It won't take long.

Q We would like it the first part of the week.

A Well this is Friday, yes.

MR. HARVEY: Have you ever had any dealings with the Treasure State Refinery at Shelby?

A No.

Q The Cutbank Refining Company?

A That is one of the companies I went and asked about the prices to the American farmer and the Canadian and they said it made no difference.

Q That is the Treasure State?

A Yes.

Q Have you had any dealings with the Cutbank Refining Company.

A Yes. We buy some stuff from them now.

Q So your contract with the Big West is not an exclusive contract at all?

A No. We are not buying any straight run or grade A from them.

Q You are buying what?

A Diesel fuel.

Q The Big West are not in a position to supply that to you?

A Not at the price we can buy it other places.

Q The Hannah Porter Company?

A Yes we dealt with them.

Q This year? And with Home?

A Not this year.

H. M. Trimble

Q None this year?

A No.

Q And if you bought any from any of these companies or any others in 1938 you will let us have that information?

A Yes.

Q That is all.

MR. NOLAN: May I ask Mr. Trimble a question? Under your system of distribution you have no bulk station?

A We have a bulk station at Coutts, at the line for storage purposes.

Q Is it taken out of the trucks and put into storage at Coutts and then re-loaded?

A Sometimes.

Q But usually it just comes through in the truck?

A Across the line. The line is only open from 9 o'clock to half past four.

Q Yes.

A And for that reason and to facilitate the handling of the stuff and to work the trucks nights we have a bulk station at Coutts.

Q But the bulk of your business is done by moving the trucks up from the Refinery in Montana to the farmers farm?

A Yes.

Q They keep on the move until delivery can be made to the farmer?

A Yes the bulk of this Alberta business does.

Q Alberta I mean. Do they stop along the road and go to a farmer and see him.

A No they will deliver one load in a district. We do not have any small accounts. Probably four would be the most that would take a truck load.

Q Four farmers?

A Four customers. We would not go there till be had a load close together.

Q When you say you are in the grain business what do you do? You haul grain do you?

A We haul grain and handle it much the same as this gasoline. We take it from the farmer and put it on the platform, not through an elevator. I have been in this kind of business since I practiced law, Your Lordship. I am no friend of the big companies but I have some farmer friends. That is the nature of our grain business. We take it from the man's yard and put it into the car.

Q Do you buy grain from the farmer.

A Yes most of the time. Sometimes he consigns it but we buy it the bulk of the time.

THE CHAIRMAN: Anything more for Mr. Trimble? Now Mr. Trimble you will return on Monday with these figures.

A I will try and get them maybe before that.

MR. FRAWLEY: Monday will be soon enough thank you. Now we have nothing this afternoon Mr. Chairman. Before we adjourn may I just have another look at my material? Yes that is quite right. I will have to ask you to adjourn till Monday.

THE CHAIRMAN: All right, Monday morning.

(At this stage the hearing was adjourned until 10.30 A.M. 25th September, 1939.)

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J. J. FRAWLEY

The Province of Alberta

IN THE MATTER OF THE PUBLIC INQUIRIES ACT

—and—

IN THE MATTER OF a Commission, dated the 12th day of October, A.D. 1938, to inquire into matters connected with Petroleum and Petroleum Products

Commissioners:

The Honourable MR. JUSTICE McGILLIVRAY
(*Chairman*)

—and—

L. R. LIPSETT, ESQ.

Session:

CALGARY, Alberta SEPTEMBER 26th, 1939

VOLUME 121

Vault
BOX 83

I N D E X

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WITNESS:

Henry M. Trimble, recalled.....13,480

Russell Frederick Bostock, sworn.....13,485

Hubert Miller, sworn.....13,499
(Cross-Examination).....13,505

Alfred Herbert Miller, recalled.....13,511

E X H I B I T S

EXHIBIT 610
Statement dated, Calgary, September 25, 1939, produced by the witness Trimble, giving further information as to prices of Gasoline products...13,480

EXHIBIT 611
Specifications for Grade "A" gasoline, Laboratory Test Sheet, Big West Oil Company, Kevin, Montana.....13,482

EXHIBIT 612
Specifications for Gasoline "D", Laboratory Test Sheet, Big West Oil Company, Kevin, Montana.....13,482

EXHIBIT 613
Specifications for Distillate No. 2, Laboratory Test Sheet, Big West Oil Company, Kevin, Montana.....13,483

EXHIBIT 614
Five Invoices produced by the witness Bostock, showing purchases of Petroleum Products in Montana,.....13,487

EXHIBIT 615
Statutory Declaration of Hubert Miller for the British American Oil Company re Montana prices with documents attached.....13,500

EXHIBIT 616
Memorandum prepared by Peat, Marwick, Mitchell & Company, Chartered Accountants, re the Texas Company of Canada, formerly marked as Exhibit "Z" for identification.....13,505

E X H I B I T S (Continued)

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EXHIBIT 617
British American Oil Company's Brief, Volume 4, presented by the witness A. H. Miller.....13,511

EXHIBIT 618
Map showing the present wholesale distribution in the Province of Alberta.....13,525

EXHIBIT 619
A map showing the refinery and wholesale distribution in the State of Montana, together with posted tank waggon and retail prices, produced by the witness A. H. Miller.....13,566

EXHIBIT 620
Statement produced by the witness A. H. Miller, dated at Butte, Montana, showing prices of Petroleum Products at key points in the State of Montana.....13,572

EXHIBIT 621
Statement produced by the witness A. H. Miller, showing service station posted retail prices in points in Montana obtained from July 17th, to July 26th, 1939.....13,573

EXHIBIT 622
18 invoices of Petroleum Products - Montana - produced by the witness A. H. Miller.....13,575

EXHIBIT 623
Statement produced by the witness A. H. Miller, showing freight rates per wine gallon from base points to key destinations in the State of Montana.....13,580

EXHIBIT 624
Statement produced by the witness A.H. Miller, showing the gallonage handled by all companies operating in the State of Montana for the years 1937, 1938, with percentages and the details of each company.....13,590

MR. FRAWLEY: I am recalling Mr. Trimble.

HENRY M. TRIMBLE, having been recalled, examined by Mr. Frawley, said:

Q Mr. Trimble, you are still under oath?

A Yes.

Q You were asked to come back to complete some information which Mr. Harvie had asked you for and some which I had asked you for myself?

A Yes.

Q I show you a statement signed by you dated the 25th of September, that was Monday, yesterday and it deals with your 1938 business?

A Yes.

Q That is what Mr. Harvie asked you to get?

A Yes.

MR. FRAWLEY: I think perhaps it will go in as quickly if I file this statement and then read it into the record. I offer Mr. Trimble's statement dated the 25th of September. It is called "Further information for Royal Commission on gasoline" and it deals with 1938 in the main.

(STATEMENT PRODUCED HERE MARKED AS EXHIBIT "610").

MR. FRAWLEY: The statement reads as follows:

"H. M. Trimble & Sons,

" Licensed Grain Merchants
And
" Fuel Oil Dealers

" 123 - 7th Ave. North West

" CALGARY, ALTA.

" September 25, 1939.

"Further Information For Royal Commission on Gasoline

" Practically all our imports for 1938 from "Montana were from the Home Oil Refining Company at "Conrad or Great Falls, the Big West Oil Company, "Kevin, or the Cut Bank Refining Company, Cut Bank, "Montana.

" The prices paid were as follows:

"To the Home Oil,	Grade A, Conrad,	7.75
	Grade A, Great Falls	7.25
"	Straight Run, Conrad or Great Falls	5.
"	Distillate, Conrad or Great Falls	4.5
"		
"To the Big West Oil Company, Kevin		
	Grade A,	7.
"	Straight Run	5.5
	Distillate	5.25
"To the Cut Bank Refining Company, Cut Bank		
	Straight Run	5.5
"	Distillate	5.

" During the year 1938 we imported 771,540 "gallons at a cost of $66,520.92 or a cost of "8.609 per gallon."

Q That is the average cost per gallon?

A Yes.

"We sold in Alberta 484,990 gallons for $57,753.09 "or an average of 11.908 per gallon. The balance,

"286,550 gallons was sold in Saskatchewan.

" As our Alberta and Saskatchewan purchases "were not kept in separate accounts it is impos- "sible for us to say what is the average cost "price of the Alberta sold gasoline. It may vary "some from the 8.609 our average cost of all our "imports. H. H. Trimble & Sons

" Per: H. H. Trimble "

Q Now I asked you to get if you could the refinery specifications of those gasolines which you told us about so fully on Friday last and you have obtained from the refinery these laboratory test sheets which you file?

A In reply to a telephone message to them that I wanted it for the Royal Commission these were sent to me.

Q MR. FRAWLEY: So we file as the next Exhibit, Mr. Chairman, the laboratory test sheets of Big West Oil Company on Gasoline A.

(TEST SHEETS PRODUCED AND MARKED EXHIBIT "611").

THE CHAIRMAN: The Big West Oil Company?

MR. FRAWLEY: Yes, that is the Big West of Kevin, Montana, that is the company that Mr. Trimble told us the other day that he bought practically all of his products from and then a similar sheet for Gasoline D or Straight Run.

MR. HARVIE: From the Big West?

MR. FRAWLEY: Yes, it is all Big West.

(TEST SHEETS PRODUCED HERE MARKED AS EXHIBIT "612")

MR. FRAWLEY: And a similar document for Distillate No. 2, that is the distillate you were speaking

to analyse these and compare them. The information is not set out in such a way so that it can be compared immediately and there may or may not be any questions. There is nothing that occurs to me at the moment and I would just suggest that if, after we have had an opportunity of analysing these, we might be allowed to recall the witness.

THE CHAIRMAN: Does Mr. Trimble live here?

MR. HARVIE: Yes.

MR. FRAWLEY: Yes, Mr. Trimble lives here. Mr. Harvie knows that he is not in the best of health and I know Mr. Harvie will not trouble him any more than he can help. I am simply asking that. Mr. Trimble has been very good to come down when he really might have insisted that he was not well enough to come at all, and I would just ask Mr. Harvie to bear that in mind when he decides whether he wants him or not.

THE CHAIRMAN: Well when you speak about analysing it, Mr. Harvie, you mean you can go on with it this afternoon or what have you in mind?

MR. HARVIE: No, I think not, but I think I can say this afternoon whether there will be any questions or whether there will not be and we can then discuss as to when it will be convenient for Mr. Trimble to come back. We have Mr. Miller from Toronto, he has already lost a day on account of the delay yesterday and we are very anxious to let him get away this afternoon. I would therefore like to proceed with that

evidence as soon as possible.

THE CHAIRMAN: Yes, I just wanted to tell Mr. Trimble when he must come back if you want him back.

MR. FRAWLEY: I think the best way to do would be for me to get in touch with him.

THE CHAIRMAN: You are going to let us know during the day whether you wish him.

MR. HARVIE: Yes.

MR. FRAWLEY: Thanks, Mr. Trimble, that is all. Now Mr. Harvie has some further evidence to submit on behalf of the British American Oil Company.

MR. HARVIE: We are calling Mr. Bostock.

:::::::::

RUSSELL FREDERICK BOSTOCK,

having been first duly sworn, examined by Mr. Harvie, said:

Q Mr. Bostock, you are an employee of the British American Oil Company, Limited?

A I am.

Q Stationed where?

A Lethbridge.

Q And what are your duties?

A District Manager for the British American Oil Company.

Q For that district?

A For the district.

Q You have recently made some investigations in connection with the purchase of gasoline in Montana?

A Yes I have.

Q I hand you five invoices here and you might just look at

them. The first one is an invoice from the Farmer's Co-op. Oil Company, dated the 25th of September, 1939, and addressed to Mr. F. McMahan, covering 100 gallons of distillate at a price of $6.50 and 50 gallons of Q Brand, of Gas, Q Brand, at a price of $9.25?

A That is right.

Q That would be 18½ cents?

A Approximately 18¼ cents.

Q Per gallon?

A Yes.

Q And the total purchases as indicated by that invoice amount to $15.75?

A Yes.

Q And marked "paid"?

A Yes.

Q Just give me the history of that----

MR. FRAWLEY: You will file the invoice?

MR. HARVIE: I might state, Mr, Chairman, these invoices were only received late last night and we did not have time to photograph them but we will have that done and file the usual number of copies.

THE CHAIRMAN: Now you are offering five invoices?

MR. HARVIE: I think we had better deal with them separately.

THE CHAIRMAN: All right. We will number them with letters then and keep them in the one Exhibit, Exhibit "614". Mr. Frawley, you put in the laboratory tests under three numbers.

MR. FRAWLEY: Oh yes, there are three,

"611", "612" and "613", three different gasolines, three different products.

THE CHAIRMAN: Yes. I had them down as being under one Exhibit number. All right. Now we will not make these all Exhibits, they will be Exhibit "614", A, B. C. and so on.

(FIRST INVOICE PRODUCED BY MR. HARVIE HERE MARKED AS EXHIBIT "614" (A).

THE CHAIRMAN: How many have you?

MR. HARVIE: There are five.

MR. FRAWLEY: Exhibit "614" (B). is what?

MR. HARVIE: Is an invoice of the Cutbank Refining Company at Cutbank, Montana, dated the 11th of July 1939, for gases sold to the Milk River Livestock Company, Johnston Ranch, at Cutbank.

A The Ranch is North of Browning.

Q MR. FRAWLEY: It is a Montana consumer?

A That is right, it is a Montana consumer.

MR. HARVIE: That will be Exhibit "614" (B).

(INVOICE PRODUCED HERE MARKED AS EXHIBIT "614" (B).

MR. HARVIE: Another invoice of A. J. Wilcox----

MR. FRAWLEY: Will you just briefly say what was on the other invoice.

MR. HARVIE: Yes, it covers a purchase of 240 gallons of Husky, Q Brand, at 14½ cents a gallon and 900 barrels of distillate No. 39 at 8½ cents a gallon. Then added to that is the 1 cent tax on----

A It is a 1 cent delivery charge included in those prices.

Q And there is a 1 cent delivery charge?

A Included in the prices you have there.

Q Then in addition to the 14½ cents and 8½ cents price there is what State tax?

A 5 cent Montana State tax on 340 gallons of Husky.

Q There is no State tax on the 900 distillate?

A No.

MR. FRAWLEY: No tax at all, you said "State"?

A No, there is no tax below the gravity given there.

Q MR. HARVIE: The next is an invoice of A. J. Wilcox.

A Wilcox is a distributor for Grizzly gasoline in Shelby for the North West Refineries.

Q The North West Refineries?

A Yes.

Q Of Cutbank?

A To a farmer consumer by the name of Homer B. Kenyon of Gelata covering the purchase of 110 gallons of Grizzly gasoline or the Q Brand at 18½ cents and 320 gallons of Nordol or the Third-Structure Gasoline at 17½ cents per gallon. Those prices include State and Federal taxes.

Q MR. FRAWLEY: That is what they are, Mr. Bostock?

A Yes.

Q Can you tell us what they are?

A Yes, 5 cent State and 1 cent Federal and that is dated on the 18th of August.

(INVOICE PRODUCED HERE MARKED AS EXHIBIT "614" (C).

Q MR. HARVIE: And the next one?

A The next invoice is of September 15th, dated, and it is a purchase from a jobber by the name of Oien & Montgomery who are jobbers and distributors in Shelby for the Socony Vacuum Company and this covers a purchase of Mobil Gas or Q Brand by tank waggon, a regular sale to a ranch, of 450 gallons at 18½ cents which also includes the State and Federal Tax.

(INVOICE PRODUCED HERE MARKED AS EXHIBIT "614" (d).

Q The next one?

A The next one is dated August 31st and it is from the same distributor, that is Oien & Montgomery, a regular cash sale to Robert A. McCormick, who is a farmer operating out of Shelby and it covers a regular tank waggon purchase of Mobil gas or Q Brand, 350 gallons at 18½ cents. The same thing applies there, the State and Federal Tax included.

(INVOICE PRODUCED HERE MARKED AS EXHIBIT "614" (E).

Q Mr. Bostock, just give us the history of those invoices, will you, and how you came into possession of them?

A Those invoices were picked up by me in the State of Montana yesterday morning. I obtained the names of the farmers from a friend of mine in Shelby who advised me they would be the best ones to go to for the purpose of picking up the invoices.

Q And you called personally on each?

A I called personally on each of those and got the invoices, obtained them from them.

Q And what do they represent or in the first place who are

all these farmers, are they Montana farmers?

A Yes.

Q And these purchases were made for consumption in Montana?

A That is right.

Q Can can you tell me from your investigation whether the prices as indicated by these invoices are the general ones?

A The prices included in these invoices are the tank waggon prices in effect in that particular district or zone.

Q And that means what, as far as the farmer is concerned, is that the price he pays?

A That is the price the farmer pays, that is the delivery price or pick-up price, whichever you want to call it, you can take it away.

Q And that is as far as these refineries are concerned or distributors, the best price the farmers can buy it for in Montana?

A Yes, definitely.

Q You have checked that?

A Yes I have.

Q Now you have had some experience in connection with Canadian farmers buying some products in Montana for Canadian consumption?

A Yes.

Q Just what has that experience been, shortly?

A Well I have found through investigation that the Canadian farmer can go over there and purchase his products at certain refineries at a smaller rate than the Montana farmer can.

Q Is there any explanation you can give for that?

A To my mind it is, as I have found out, it is a distress market in Montana and they are angling for the Canadian market more than ever.

Q That is all thanks.

MR. FRAWLEY: Mr. Bostock, what you mean is the Montana refiners are dumping into Alberta?

A That is quite right.

Q That is a problem of the Federal Government?

A Yes.

Q You do not know anything about what your company has done with the Federal Government to prevent that sort of thing?

A No.

Q And what you have in mind is that gasoline would have to come into Canada at prices which you maintain in Southern Alberta before you think it would put your Southern Alberta market back into a healthy position?

A I would not like to pass an opinion on that because after all that is a little out of my line.

Q You are the district representative in Southern Alberta?

A Yes.

Q Your business is to go all through Southern Alberta looking after the interests of the British American Oil Company?

A Yes.

Q You are aware of course that you are forced to maintain tank wagon prices in Southern Alberta which are out of line with the tank wagon prices in the rest of Alberta?

A That is quite right.

Q The tank wagon prices all over Alberta are Calgary plus freight and you have to depart from that in Southern Alberta?

A No not as far as we are concerned.

Q The tank wagon price at Milk River is not Calgary plus freight?

A You are referring to what grades of gaoline?

Q Standard and Ethyl. Ethyl and Q. What I mean simply is the posted tank wagon price that you are compelled by the Montana competition to post in Milk River - have you a bulk station at Milk River?

A Yes we have.

Q The posted tank wagon price at Milk River is 17¢?

A Yes.

Q That is not Calgary plus freight? I mean, you know that don't you?

A Yes.

Q You have to take something less than Calgary plus freight?

A Yes.

Q Whereas if you go up to Lacombe you will find the posted tank wagon price on Nevr-Nox is Calgary plus freight?

A Yes.

Q So you are forced to depart from the Calgary plus freight in Southern Alberta because of Montana competition? You buy the crude oil in Turner Valley and refine it in Calgary and you take it down there. You have not given up that market. You are still bucking that freight rate and selling Nevr-Nox in Milk River?

A Yes.

Q Or trying to sell it.

A Yes.

Q As against gasoline that comes in from Montana ?

A Yes.

Q The position of your company is that the competition is unfair, that it is dumped in?

A Yes.

Q And that Mr. Trimble, we may as well face the situation, Mr. Trimble is the big individual importer, as big as anyone in that district?

A Yes.

Q The Texas Company being the first and perhaps Mr. Trimble being the second?

A Yes.

Q And that Mr. Trimble gets his gasoline at dump prices in Montana and he comes in and destroys the structure in Southern Alberta?

A Quite.

Q And it is a losing proposition as far as your company is concerned?

A Yes it is definitely.

Q To ascertain whether or not Mr. Trimble is dumping I suppose it is fair to compare as closely as we can what a man in Montana like Mr. Trimble - a Trimble in Montana. That would seem to be the fair thing to try and find?

A Yes.

Q Have you ever heard in your travels in Montana of one Earl Klack?

A H. Earl Klack yes I have.

Q You do not know anything about the prices at which Mr. Klack takes the gas away from the Refinery in Montana?

A No I do not.

R. F. Bostock

Q Do you agree with the suggestion I am going to make to you. I suggest to you whether it be this Commission or the Federal Customs authority that wants to determine this question that we are all interested in, and that is dumping or no dumping, that they must compare H. M. Trimble with Mr. H. Earl Klack in Montana. What do you think about that?

A No I do not think so.

Q Why?

A Mr. Klack is a large scale operator. He has service station outlets in Montana and Idaho and Washington and he buys in larger quantities in all markets.

Q Do you think if the Big West Refinery choose to put in their own minds and their own business dealings, choose to put Mr. Klack and Mr. Trimble on a par that there would be anything wrong about that. If they chose to sell Mr. Trimble at 5¢, third structure, and Mr. Klack at 5¢, that that is a gross violation of the Federal Dumping law. Well perhaps I should not press you. But that is the point.

A Yes.

Q We have some invoices which Mr. Nolan has perhaps taken away - no it is Mr. Plotkins. These are a series of invoices you picked up of farmers purchasing, as far as purchases down there?

A That is Montana farmers purchasing.

Q Yes Montana farmers purchasing in the usual channels which they use down there?

A Yes.

Q In other words Mr. Homer Kenyon is a farmer consumer at Galeta, Montana, and his ordinary channel is to go to Mr. Wilcox who is the Grizzly distributor for Shelby?

A Yes.

Q And buy his gasoline. He pays for that Q brand, he pays 12⅘¢?

A That is right, less tax.

Q He pays 12⅘¢ for the Q gasoline and what is the point about that? What are we to compare with the 12⅘¢. That is doubtless the posted tank waggon price on Q gasoline for farmers for any of them, for any bulk purchaser?

A That is right.

Q In Shelby?

A Yes.

Q Just so that I will understand it, what is the point in connection with that 12⅘¢, so that I will understand it.

MR. HARVEY: We propose to bring another witness to give comperative prices that the Alberta farmer can buy at.

MR. FRAWLEY: As long as Mr. Bostock is not any menial servant of the British American Company, he is a district representative.

Q You are the man concerned with the Southern Alberta business aren't you?

A That is right.

Q That is the business that is sub-normal that we have heard all about before now, many weeks ago both from the B.A. and the Imperial so that I would like to speak to you about the Southern Alberta situation. What is wrong with that 12⅘¢ that Mr. Kenyon pays as far as your company. There is nothing wrong about it as far as Shelby is concerned but what is the point about the 12⅘¢, being the farmers posted tank wagon price at Shelby?

R. F. Bostock

A It is a comparison of the posted tank wagon price.

Q What would you compare that with?

A I am of the opinion that these individual farmers here could not buy at a less price than that from the Refinery. There are a few small refineries there they may go and get a better price.

Q But he is going and buying from the bulk Station?

A Yes.

Q And he is paying 12½¢? Is there any comparison with any Canadian price there?

A No.

Q Mr. Trimble does not buy at bulk points you know?

A No.

Q He is a Refinery buyer?

A Yes.

Q So that there is no comparison between Mr. Kenyons purchasing from Mr. Wilcox and Mr. Trimble buying from the Big West. Do you think there is?

A No there is no comparison there.

Q I have no knowledge at all of what the farmers have to pay when they go to bulk stations and buy. As far as I am concerned I have not endeavored to put in any such evidence. Now Mr. Greenup at Shelby buys from Oien & Montgomery, that is exactly the same thing?

A Yes.

Q That is 12½¢ for Grizzly. That is as far as you know the posted tank wagon price for Grizzly that farmers have to pay?

A 12½¢ is the posted tank wagon price on Q brand at any of the bulk plants.

R. F. Bostock

Q I would like to have a Refinery price. You have an invoice from the Cutbank Refining Company and they sell to the Milk River Livestock Company. That is not Milk River, Alberta?

A That is south of Milk River but it is in the Milk River ridge district. It is in Montana.

Q That is a Montana transaction?

A Quite.

Q That is a farmer consumer, not any different from Mr. Kenyon?

A No.

Q He buys Q gasoline, 240 gallons of gasoline Husky at 14⅖¢?

A Yes that is right.

Q You say you understand, Mr. Bostock, there is no tax in there?

A On the Husky. Yes the tax is added down below.

Q The tax is added. I am looking at the price of 14⅖¢.

A No. There is a 1¢ delivery charge in that.

Q This Milk River Company is paying 14⅖¢. They have not as good a deal as Kenyon has buying it from Wilcox, similar gasoline?

A No it is 14⅖¢. 1¢ delivery charge is added and 1¢ I believe Frederal Tax. That brings it down to 12⅖¢.

Q So it is the same thing?

A That is right it is the same thing.

Q That refinery has regarded itself as a bulk point for the purpose of that transaction does it not?

A Yes they sell bulk there at the Refinery.

Q Like some refiners here might do for convenience sake?

A No.

Q It is not a Refinery transaction. It is a bulk station

R. F. Bostock

transaction?

A It is really both. They do not have any outlet with the exception of the Refinery.

Q Mr. Plotkins in Calgary, a lot of his business are refinery sales but they are common, what we ordinarily know as wholesale sales.

A Yes.

Q Bulk sales?

A Yes.

Q So this would be a very comparable transaction between Kenyon and Wilcox?

A Yes.

Q And the same thing with this Farmers Co-op.?

A Yes that is exactly the same thing there.

Q There are really no refinery transactions in this group of invoices?

A No, with the exception of the Cutbank Refining. They fill that at the Refinery.

Q But that is just the same, just a sort of what you might call a Refinery yard transaction where they have for convenience sake a bulk distributing outlet.

A Yes because they have no other outlet.

Q You have seen that?

A Yes.

Q Would there be any difference between a farmer going to that bulk point and going to Wilcox at Shelby. He pays the same price and gets the same kind of gasoline?

A Yes.

Q I leave it to you there are none of these that are refinery transactions of the nature of the Trimble transaction?

A Oh no.

HUBERT MILLER, having been duly sworn, testified as follows:

Q Mr. Miller you reside at Milk River in the Province of Alberta?

A Yes.

Q Or near there. What is your occupation?

A Farming.

Q Yes.

A And we do cropping. My sons do cropping.

Q Where is your farm located.

A Six miles straight north of Milk River.

Q Have you had some experience in connection with your own personal affairs of purchasing gasoline in Montana?

A Yes.

Q And bringing it in to Alberta for your own use?

A Yes.

Q In what quantities have you purchased?

A I never did any in large quantities. Just small quantities. I used to haul quite a lot of fuel for Mr. Koltz of Milk River that he used for fuel oil in the furnace.

MR. HARVEY: Mr. Chairman, I think to expedite matters Mr. Miller's evidence was in the form of a Statutory Declaration. I cannot file it in that form but we might read it as a statement and if I may just confirm the contents possibly it would be quicker than continuing the questions and answers.

MR. FRAWLEY: It is Mr. Millers statement. We might file it as a memorandum and he can swear to it.

THE CHAIRMAN: Have him verify his statement and file it as an Exhibit. Any objection?

MR. NOLAN: No.

MR. HARVEY: You might look that over and see if it is the statement prepared by or for you.

A Yes.

Q The contents contained in this statement are accurate?

A Absolutely.

THE CHAIRMAN: All right. The statement by the witness re: what? It is a statement by the witness Miller entituled what?

MR. HARVEY: Entituled Statutory Declaration. In the matter of the Public Enquiries Act and in the matter of Commission dated the 12th day of October 1938, to inquire into matters connected with Petroleum and Petroleum Products.

THE CHAIRMAN: Yes and what is it relating to? Regarding gasoline and other products purchased in Montana?

MR. HARVEY: Yes.

THE CHAIRMAN: By a Canadian farmer?

MR. HARVEY: Yes; I could read it just as a statement.

THE CHAIRMAN: Yes.

I, HUBERT MILLER, of Milk River in the Province of Alberta, Farmer and Trucker, do solemnly declare as follows:

1. THAT I reside on my farm situated approximately five miles northwest of the Town of Milk River in the Province of Alberta, and carry on a general farming and trucking business.

2. THAT I own and operate in connection with my said business One Two-ton INTERNATIONAL TRUCK, for which I hold the following License issued by the Province of Alberta:

(Truck License) 3472

T.(P.S.V. Commercial License) 807

3. THAT I have in the course of my said business over the past few years taken my truck and some empty gasoline drums into the State of Montana and there purchased petroleum products which I have brought back into the Province of Alberta for my own personal use.

4. THAT on or about the 12th day of July, 1939, I took my said Truck to the said State of Montana with fifteen empty gasoline drums and, while there, purchased the products for the price and from the parties, and also received quotations from such parties as under-mentioned, namely:

(a) HOME OIL & REFINING COMPANY of Great Falls, Montana, at its Conrad Refinery.

3 Barrels Straight Run Gasoline @ 6¢ per wine gallon
2 " B. Distillate @ 6¢ " " "

I also received the following quotations from the said Company:

In quantities of 10,000 gallons or over-

Straight Run Gasoline 58.60 gravity @ 5¢ per wine gallon
B. Distillate 44 gravity @ 4 to 4½ cents.
Deisel Fuel ..... @ 4 cents per wine gallon
72 Octane Heavy Oil Bronze Gasoline 6 " " " "

Q MR. HARVEY: I think that should read 72 Octane Bronze Gasoline.

THE CHAIRMAN: What does the witness say?

MR. HARVEY: It reads 72 Octane Heavy Oil Bronze Gasoline. Just what is that. Or is that an error in the statement?

A Well that must have been Straight Run Gasoline.

Q Do you remember what you were quoted 6¢ on?

A That might have been Distillate.

Q It is Bronze Gasoline. Do you know what that is in the United States.

A No I do not.

Q All right we will have to leave it stand.

A Third Grade White Gasoline @ 5¢ per wine gallon.

(b) HANNAH-PORTER COMPANY of Shelby, Montana.

3 barrels (165 gallons) Distillate © 6¢ per wine gallon

(c) CUT BANK REFINING COMPANY of Cut Bank, Montana.

2 barrels (108 gallons) Energy Straight Run Gasoline @6¢ per wine gallon
1 " (54 gallons) Distillate No. 1. @ 5½¢ per wine gallon.

I was also advised by the said Company that I would be allowed a discount of one-half cent to one cent per wine gallon for large purchases of 5,000 to 10,000 gallons or more.

(d) TREASURE STATE REFINING COMPANY of Shelby, Montana.

2 barrels (110 gallons) No. 1 Gasoline, Straight Run @5½¢ per wine gallon
2 " (110 gallons) No. 1 Distillate @ 5¢ per wine gallon

I was also advised by the said Company that I would be allowed a discount of one cent per wine gallon on purchases of 10,000 gallons or more on both gasoline and distillate.

All the above prices and quotations were given to me on the understanding that the products were being purchased for export to Canada.

H. Miller

5. THAT I was accompanied on the said trip by my son Gilbert Miller.

6 THAT on my various trips I found it was not necessary to obtain a Montana License for my truck.

7 THAT now shown to me and market Exhibit "A" to this my Declaration is the customs form showing the Customs duty paid on the above imported products.

8 THAT now shown to me and marked Exhibit "B" to this my Declaration is a Government of the Province of Alberta Interim Fuel Oil Tax Receipt No. 6714 for the tax paid on the said imported products.

9. THAT now shown to me and marked Exhibit "C" to this my Declaration is Canadian Customs Certificate MA covering the said products purchased from the Home Oil & Refining Company.

10. THAT now shown to me and marked Exhibit "D" to this my Declaration is the original invoice No. 2009 covering the purchase of the above described products, purchased from the Hannah-Porter Co.

11. THAT now shown to me and marked Exhibit "E" to this my Declaration is the original invoice No. C. 03495 covering the purchase of the above described products, purchased from Cut Bank Refining Co.

12. THAT now shown to me and marked Exhibit "F" to this my Declaration is the original invoice No. 02355 covering the purchase of the above described products, purchased from Treasure State Refining Co.

AND I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath; and by virtue of the Canada Evidence Act.

DECLARED before me at Milk River
in the Province of Alberta, this
12 day of August, A.D. 1939

Hubert Miller

R.F. Bostock
A commissioner for Oaths in and for
the Province of Alberta.

MR. HARVEY: And attached are Exhibit A the Customs sheet and the various exhibits. I do not know whether you wish to have them all read in. They have been described.

MR. FRAWLEY: Oh no not as far as I am concerned.

MR. HARVEY: Photographic copies of them will be supplied the Commission.

Q Have you got anything to add to that statement, Mr. Miller?

A No.

(page 13,505 follows)

CROSS-EXAMINATION BY MR. FRAWLEY:

THE CHAIRMAN: Mr. Frawley, while the matter is present in my mind, did you speak to Mr. Macleod about Exhibit "Z" marked for identification?

MR. FRAWLEY: Yes, I did.

THE CHAIRMAN: Mr. Meltaberger is here and it reminded me about it.

MR. FRAWLEY: Yes, every time Mr. Meltaberge comes I am reminded of something also. Mr. Macleod says that it is quite all right and he is agreeable that it be marked as an Exhibit.

THE CHAIRMAN: I wonder if we should not deal with it now then.

MR. FRAWLEY: Yes, it is here.

THE CHAIRMAN: That was Exhibit "Z" for identification and we will now mark it Exhibit "616".

(EXHIBIT "Z" HERE MARKED AS EXHIBIT "616".)

Q MR. FRAWLEY: Mr. Miller, you made a trip down to the State of Montana and bought gasoline from all of these different people or just went and asked them for their prices?

A No, we bought them.

Q You bought some from the Home at Conrad and some from the Hanna Porter at Shelby, some from the Cutbank at Cutbank, some from the Treasure State at Shelby?

A That is right.

Q There is nothing wrong in the world with you doing that but that is a peculiar sort of thing for you to do, did you do that because somebody asked you to do that?

A I was hired by the British American dealer in Milk River.

Q To do it that way?

A Yes.

Q To see what information you could find out about their prices down there?

A Well I just went down there, there was not much said, I didn't know what it was for at the time I went down there.

Q But I mean you went to these different places, and was it suggested you go to those refineries?

A Yes.

Q It was not suggested you should go to A. J. Wilcox at Shelby and buy some of his?

A No.

Q You were asked to go to the refineries and see what they would sell it to you at?

A Yes.

Q Now it is a fact that the Canadian farmers can go down to the refineries and buy at refinery prices?

A That is what I understand to be the fact.

Q You understand that to be the fact?

A Yes.

Q That the Canadian farmers can go to the refinery and buy at refinery prices?

A Yes.

Q And that the American farmer cannot go to the refinery and buy at refinery prices?

A That is true.

Q He has to go and buy it just like the farmer in Southern Alberta has to go and buy it from the nearest bulk station?

A I am not, I would not say that, I do not know whether the farmer can go right direct, I believe he has the right to go right to the refinery and buy it himself?

Q Where is that?

A I think any refinery in the State of Montana.

Q Then your understanding is not the same as mine. You understand that the farmer, like yourself, can go to the refinery and buy at these kind of prices?

A Well I do not know. I do not know what they would pay for it. I do not know anything about it.

Q I understand they do not go there at all, they do not buy it at all at the refineries. Now am I wrong about that, they have to go to ordinary bulk outlets like we have all over Alberta, farmers' bulk outlets?

A Oh, I would not say that. I know that there are lots of farmers, I am quite well acquainted down there, I used to live in Montana and this Hannah Porter outfit, that is right on the boundary there and there are a lot of farmers go right to this refinery and get their distillate and get their gasoline there.

Q The Montana farmers?

A Yes.

Q And what do they pay?

A I do not know.

Q You do not know what they pay?

A No, I do not.

Q I wish you would, anyway you just do not know what they pay?

A No, I do not.

Q Did you ever try the Sunburst refinery?

A No.

Q You did not buy any regular gasoline, you just bought third structure gasoline?

A That is right.

Q You didn't buy any regular gasoline at all?

A No, we just asked for the straight run gasoline.

Q You were asked only to purchase that, by the British American Oil Company?

A No, I didn't, that is what I asked for and that is what they gave me.

Q In any event whatever the reason was you did not buy any regular gasoline or get any quotations on regular gasoline at all?

A No, not of different grades I didn't.

Q No, but straight run gasoline, that is what we call third grade gasoline, you understand that, do you not?

A Yes.

Q All right. Regular gasoline or second grade, if you want to call it that, you did not ask for any of that at all?

A No.

Q Standard 70 octane gasoline?

A No.

Q You didn't ask for that at all?

A No.

Q You paid 6 cents per Wine gallon for straight run gasoline from the Home Oil Company at Conrad?

A Yes.

Q Of course the Texas Company pays a lot less than that for third structure gasoline at Sunburst but you do not know about that?

A No, I do not.

Q In fact the Texas Company is just left out of this affidavit altogether?

A Yes.

Q You didn't go near the Texas Company at all?

H. Miller

A No.

Q You do not know anything about their refinery prices at all?

A No.

Q But the biggest competition in Alberta is the Texas Company of course?

A I do not know.

Q Did Mr. Bostock suggest that you go to these different refineries that you did go to?

A Mr. Arnold, that is their local dealer down there.

Q He suggested you go to these different refineries?

A Yes.

Q But the Texas Company, their refinery did not enter into the conversation at all, so far as you know, Mr. Arnold and Mr. Bostock did not seem to be concerned with the Texas competition at all?

A Well as I told you before, I did not really know what I was going down there for this stuff for. I was asked to go down and get it and I went and got it.

Q Now those are the entries for the trip you made at that time, in July?

A Yes.

Q And have you got the customs, yes, you purchased from the Home Oil and Refining Company at Conrad on the 12th day of July, 1939, 3 barrels or 165 gallons of straight run gasoline for $9.90?

A Yes, I guess that is what it figures out at.

Q And this document is made out by the Home Oil and Refining Company, is it not?

A Sure.

Q And they swear or certify that the price, that their market value at the time and place of shipment is $9.90?

A Sure.

Q And that the selling price to the purchaser in Canada, that is you, is $9.90, the same price?

A Yes.

Q That is true, is it not?

A That is what these figures amount to, sure.

Q That means that they are telling the Dominion Government that the market, that their market price in Montana and that their market price to you from Alberta is the same exactly, that is what they are saying, is it not?

A Well I do not know.

Q I mean that is the purpose, is it not, of these Customs' Invoices, to show whether or not they are selling at a preferred price to the Canadian as against their own American purchaser?

A Yes, I suppose that is it.

Q And you really do not know whether or not the Montana Refinery just refuses, that is all, for some other good reason perhaps or for no reason, refuses to give the Montana farmer the same privilege he gives you of going into his refinery yard and buying at the refinery prices, you do not know about that?

A The refinery I believe did say the reason they could sell it cheaper to the Canadian customer was for the reason they didn't have to pay any tax on the stuff they sold for export purposes.

Q Didn't have to pay any taxes?

A Yes, the refinery didn't have to from now on, that was told me.

Q Well that would be a refinery tax of some kind, on what they sold to you they didn't have to pay this tax, is there some

tax that the refinery pays?

A I do not know.

MR. FRAWLEY: That is all, thank you.

THE CHAIRMAN: Any questions?

MR. HARVIE: Mr. Miller wishes to continue his evidence and it is in the form of a brief, brief No. 4 presented by him.

(B. A. BRIEF NO. 4 PRODUCED AND MARKED AS EXHIBIT "617".)

.....

ALFRED HERBERT MILLER, having been recalled, examined by Mr. Harvie, said:

Q THE CHAIRMAN: Mr. Miller, before you enter upon consideration of the brief in apropos of the evidence which we have just been listening to, what is your real competition in Southern Alberta, from people who are of the "Trimble" type or from individual farmers going in and getting truck loads of gasoline?

A Well undoubtedly, Mr. Chairman, it is both.

Q Both?

A Yes. What we are trying to convey there or clear up in the minds of those interested was the fact that the Canadian consumer can proceed to Montana and buy his gasoline provided only however that it is exported back into Canada, at prices several cents below the price at which the American consumer in the State of Montana, that is the comparable consumer, the farmer in the State of Montana, buys for.

Q MR. FRAWLEY: Through a different system?

A I would not say through a different system, Mr. Frawley.

The fact remains that refineries in the State of Montana, of which there are 33 according to a map which we will present later, a great number of those refineries are doing their business at the refinery door to the consumer, at the prices that the same consumer would have to pay at the bulk plant that the refinery might sell to, that is quite evident from, I think as Mr. Miller said, that one refinery there has a bulk plant attached to the refinery, in other words the refinery and the bulk plant is one and they simply use these loading tanks at the refinery which they term a bulk plant for filling the receptacles of the consumer.

Q THE CHAIRMAN: Now, Mr. Miller, take one thing at a time and I would like to know wherein lies the competition. You say it is from both. Are they relatively the same, the amount or volume by farmers or the volume brought in by people such as Trimble or are they not?

A Well I have not the figures on that, Mr. Chairman, but I would think that there is a greater percentage brought in by jobbers or distributors for resale in Canada than there is purchased by the individual consumer of Alberta but as I say I have not the figures to substantiate that. The Customs Department no doubt can.

Q That can be substantiated through the Customs Department you think?

A Yes.

Q But you think it would be roughly, Mr. Miller, what part of the whole, that the farmers get by trucking in?

A It is very difficult to estimate.

Q You cannot estimate?

A I would not wish to estimate it because I am not conversant with the number of consumers that go to the State of Montana.

MR. FRAWLEY: We have that information, Mr. Chairman. You remember for 1938 Mr. Appleton put in the figures which he broke up and there was one group that he called, "Miscellaneous Importers" and that is Exhibit "476" or "479", I think Exhibit "476" contains that information and then ----

MR. HARVIE: Exhibit "602" gives the same information for the months of June and July.

MR. FRAWLEY: Well, I will call your attention to it, Mr. Chairman, it is Exhibit "456" filed by the witness Appleton and he has a classification called "U. S. A. Importations Other Than Texas Company" and let me just read into the record, the Texas Company of Canada and controlled gallons, and those would be all imported, that was 7,734,994 gallons. Then he has a classification, "U. S. A. Importations other than Texas Company" and that is 2,496,087 gallons and in this group "U. S. A. Importations other than Texas Company", there are a number of them and one of them, the biggest one by far is "Individual Importations Farmers Own Products" and that is 1,188,892 and Mr. Trimble has 458,998. Of course Mr. Trimble's evidence shows he has exceeded that very considerably but that is his 1938 business into Alberta.

THE CHAIRMAN: Do I understand that is an Exhibit showing importations by individual farmers?

MR. FRAWLEY: Yes.

Q And it is much greater than by jobbers or distributors, leaving out the Texas Company?

MR. FRAWLEY: Leaving out the Texas Company, that is right. There are this group of people, Consumer's Oil, I need not read them, and the total is 2,496,722 and the

Trimble's figure is, the farmers', the individual figures by farmers 1,188,892.

MR. PLOTKINS: Roughly one half.

MR. FRAWLEY: Yes, roughly one half excluding the Texas Company.

MAJOR LIPSETT: Trimble is included in the other half.

MR. FRAWLEY: Mr. Trimble is included in the other half, about a half a million. Mr. Trimble has a little less than a half a million for 1938 and then you see the next biggest one is the 77 Oil Company, 346,000; the next biggest one is Huff Refining Company, Lethbridge, and that is 135,000; then the Hydro Pete Oils 105,000 and the rest are 87,000, the Becker Oil Company 87,000 and so on but that is the picture of the Montana importations.

MR. PLOTKINS: Roughly the total as of those farmer consumers represent 10%, if you include the Texas Company and all other importations.

MR. FRAWLEY: In percentages, that is worked out, so I can give you that very quickly. The U. S. A. Importations for the Texas Company are 2.70% of the total sales. I am not bothering now about taxable or not taxable. It is slightly different taxable, it is 3.17%, and the total taxable 2.70%. The Texas Company is 8.43% so if you add them altogether you have say, 10%.

MR. PLOTKINS: But of the 10% which is coming into Alberta, that is of the 10% represented roughly by 10,000,000, - 10% of that which is the consumer purchases and is what the Chairman is trying to ascertain, the percentage between farmer and the trade.

THE CHAIRMAN: Yes.

MR. PLOTKINS: It is roughly 10% of the total, that is according to these figures.

WITNESS: In answer to your question, Mr. Chairman, we are going to present to you later some further facts on Montana distribution and marketing and at that time, notwithstanding the fact that the percentage is 50% consumer and 50% distributor coming in from the State of Montana ----

Q MR. FRAWLEY: Other than the Texas Company you say?

A Other than the Texas Company, the fact remains that the distributors of it, we will give you facts, in the State of Montana, are not either able to buy at the same price that smaller distributors can buy for export into Canada, in other words there are many distributors in the State of Montana that are buying their requirements in far greater quantities than local distributors in the Province of Alberta purchase in Montana at prices 2½ cents below the prevailing tank wagon price.

Q MR. FRAWLEY: You mean there are people like Mr. Trimble who operate in Montana exclusively and who pay more to the Big West Refinery than Mr. Trimble does?

A Quite a lot more, quite a lot more.

Q And have the same sort of operation?

A I would say they have. As I said, Mr. Frawley, they have a larger operation than the average distributor, that is the independent distributor has in the Province of Alberta.

Q And their refinery door price is less than Trimble pays, in other words they cannot get straight run gasoline for 5 cents, that is your point?

A Quite right.

Q And they cannot get 70 octane gasoline for 7 cents?

A Quite right.

THE CHAIRMAN: I am anxious to get something comparable, if we are trying to explore this. We have Trimble, why don't we call Klack. If we have Canadian farmers why don't we get some American farmer. The comparison at the moment is between the farmer in the United States buying from bulk stations, in comparison with the Canadian farmer buying at the refinery. It may be that the American farmer can buy from the refineries too. I do not know. If we are going to explore it we should know something about that.

MR. HARVIE: I think that is pretty well all dealt with in Mr. Miller's brief.

WITNESS: Mr. Chairman, if you would like to explore that, I was going to commence with the distribution in the Province of Alberta but I can just as well proceed with the State of Montana and that will convey, I think, the information you wish.

THE CHAIRMAN: No, I do not want to change the order of your brief at all. What I am concerned with, is not just the brief but a statement of witnesses who know.

MR. FRAWLEY: Surely.

WITNESS: We have evidence here.

THE CHAIRMAN: If we have Klack let us hear him, if we have American farmers, let us hear them, quite over and above your brief, Mr. Miller, and I am not minimizing its value at all. Let us hear these American farmers who have tried to buy oil in Montana. I may say that Commission Counsel is here and if Mr. Frawley is of the opinion that they cannot buy at the refinery these products, as I understand it,

and Mr. Miller is of the opinion that they can, now after all that is a fact capable of being ascertained by witnesses who can come in and swear to the facts and be cross-examined upon it, as evidence.

MR. FRAWLEY: Let Mr. Miller and Mr. Harvie bring them. Certainly I have no intention of bringing them. The British American Oil Company has made the allegation to this Commission that there is dumping and they have attempted to prove it. So far as I am concerned the farmers in Southern Alberta are getting cheap gasoline and I am not going to try to bring the price up.

MR. HARVIE: That is what we are trying to do. We are bringing our witnesses one by one but no one witness can prove all points and so far as we are concerned we propose to submit our evidence and I do not imagine the Commission will take amy statement of Commission Counsel contradictory to evidence at all that we call just to disprove our statements and if he is under a misapprehension of what can be done down there he can cure that but we are going to bring evidence as to what we think the condition is.

MR. FRAWLEY: The Chairman suggests that you do not have comparisons to compare. I am in accord with that so far and I would like to hear what Mr. Klack has to say as against Mr. Trimble if you are making a point of it and I suggest "prove it" and that is all and maybe Mr. Miller is going to do a lot about that.

THE CHAIRMAN: Have you anything to say, Mr. Meltaberger?

MR. MELTABERGER: On next Monday I am going to have here these refiners who have been mentioned to tell

their story so that you can get the facts from them.

THE CHAIRMAN: All right. We are here to hear the evidence.

SPECTATOR: Mr. Chairman, this is the first time I was ever in a Court Room in my life and I would like to ask Mr. Miller a question?

THE CHAIRMAN: What is your name?

SPECTATOR: Snowden of the 77 Oil Company.

THE CHAIRMAN: Your first name?

MR. SNOWDEN: Alexander.

THE CHAIRMAN: And you are associated with?

MR. SNOWDEN: The 77 Oil Company at Lethbridge.

THE CHAIRMAN: And what is your position Mr. Snowden?

MR. SNOWDEN: Well, Managership I imagine.

THE CHAIRMAN: Manager?

MR. SNOWDEN: Yes.

THE CHAIRMAN: And you want to ask some questions of Mr. Miller, all right go on.

Q MR. SNOWDEN: I just want to draw a comparison of our connection with the refineries whom I am going to suggest that the major oil companies would not form a strata or comparison with the refineries that were mentioned in Alberta under similar conditions ----

THE CHAIRMAN: You can ask Mr. Miller anything you want to or if you want to give evidence yourself, all right but if you just want to ask questions you will have to put your statements in the form of questions.

Q MR. SNOWDEN: My question, Mr. Miller, is the refineries are not operating any differently than, I suggest, Huff's from Lethbridge or some of the refineries operating in the City of Calgary a few years ago were in comparison with

the price structure?

A I didn't quite get your question.

Q Well as I understand you are endeavoring to infer that these refineries that have been mentioned are on a refining structure basis such as yours, that is large operating refineries and what I wish to say ----

THE CHAIRMAN: Let him answer that, that is no doubt meant to be in the form of a question.

A I think I said there were 33 refineries in the State of Montana and they vary in capacity and also they vary in their operations and marketing practices. There are some refineries in the State of Montana that do not sell to consumers. They either have their own distribution, to which they ship or they are supplying jobbers who sell, and then the other type is the type that we find selling direct to the consumer, both the American consumer and the Canadian sconsumer but at two different prices.

(Go to Page 13,520)

Q Yes, I understand that, but you would not suggest, Mr. Miller, that the Huff refinery in the City of Lethbridge can produce a product equal in quality to that of yours in Calgary?

A I am not a refining expert and, therefore, I cannot answer that question. I do not know Mr. Huff's refinery.

Q The majority of refiners mentioned here are refiners who have not the refining facilities enjoyed by the larger refiners and capable of producing as good a product, and you are endeavouring to compare the prices of those people with the refiners in Montana who have facilities such as you have in the Province? If we are to compare prices, let us compare prices of the refiners you mentioned there, compare them with Mr. Huff's refinery, for instance. Compare his prices this Fall. They are not your prices as a refiner and marketer in the Province. Let us endeavour to be fair. An endeavour is being made to suggest that the prices quoted by these refiners on a similar status as Mr. Huff are equal in quality to the products which you offer?

A I do not think I have made any comparison yet in the prices. The only statement I have made is that the Canadian consumer and the Canadian distributor both buy from the American refiner at a lower price than the American consumer or the American distributor can buy from the same source of supply. That is the only comparison I have made.

Q THE CHAIRMAN: From the same source?

A Yes, sir.

Q That is to say, you take a given refinery in Montana, it is your contention that a Canadian distributor and a Canadian farmer can respectively buy at prices which the American distributor and the American farmer cannot from that

particular refinery?

A There is all the evidence in the world to prove that, Mr. Chairman. You have some here to-day and you have heard Mr. Hubert Miller, who lived in Montana. And I think your suggestion was a good one. I will say this, that if American farmers were brought here they would give you the same information I have given you this morning in the record. If you bring distributors from the State of Montana you will find, as we are going to produce later by documentary evidence - if you bring some of those distributors, who, as I said heretofore, are selling greater quantities than Canadian distributors in Alberta, to this Commission, you will find they are paying the refiners in Montana 2½ cents below the tank waggon price. Now, in some cases as high as 9 cents a gallon for products that are being sold to distributors coming into Alberta at 6 cents a gallon.

Q MR. SNOWDON: Mr. Miller, the point I wish to suggest to you is this, you would not suggest that the Texas Company refinery in Sunburst are marketing products similar to that. If you are going to be fair about this, let us get at an equal basis in the oil industry.

THE CHAIRMAN: Mr. Snowdon, that is not what I put to Mr. Miller. That took a particular refinery. It is his contention, whether he establishes it or not is another matter, as I understand Mr. Miller it is his contention that taking a particular refinery producing a particular product that the Canadian distributor and Canadian farmer respectively at their respective prices can buy for less money than the American distributor and the American farmer that same product from that same refinery?

A That is right.

Q That is his position?

A Yes.

Q I think that is quite clear to you. Whether it is right or not is a matter for evidence.

MR. SNOWDON: I understood Mr. Miller was comparing the prices in ratio to the qualtiy of products produced by the different refiners?

A No.

Q THE CHAIRMAN: The same product and the same refineries?

A But different prices.

Q Different prices between the Canadian and the American?

MR. SNOWDON: Thanks.

Q MR. HARVIE: All right, Mr. Miller. Now, would there be any preference in going ahead with the Montana situation. I do not think it makes a bit of difference with the brief. If you think it would be more logical to follow it on.

THE CHAIRMAN: Whatever Mr. Miller considers the most orderly presentation for himself. It is immaterial to us. Ultimately, if it is intended we are to speak about Montana, it will need to be established, that which has just been discussed, by a proper comparison with the type of refinery, the same product, the refineries, if you are taking a dozen of them, the principle is just the same. The same refineries, the same products, the same class of person, farmer and distributor, or any other type you wish to interject. But it must be comparable?

A That is right.

Q The Canadian farmer buying from the refinery and the American

A. H. Miller.

farmer buying from the bulk station seems to me not.

MR. HARVIE: All right, then start at the first of your brief. You are still under oath, Mr. Miller?

A That is right.

THE CHAIRMAN: What are your initials again, Mr. Miller? We have just had another Miller?

A A. H.

RE ALBERTA DISTRIBUTION.

We were requested to submit further information to support the claim that the wholesale distribution of petroleum products in the Province of Alberta was insufficient and therefore inadequate to serve economically the farming industry of the Province.

We therefore wish to submit a map that has been prepared, showing the present wholesale distribution in the Province of Alberta, according to information supplied us by the Commission Counsel, namely, that there are 1,035 wholesale plants installed at 372 towns in the Province of Alberta. In addition, we show the wide areas where wholesale facilities are not available, and other information as follows:

(a) Trunk highways.

(b) Railways.

(c) Provincial Boundaries.

(d) Municipal Boundaries.

(e) Existing Bulk Plants.

(f) Other Towns (being towns where wholesale facilities do not exist.)

(g) Population.

(h) Number of tractors.

A. H. Miller.

(i) Mileage.

(j) The No. of the Municipality.

(k) Mileage Scale - 1" equals 10 miles.

(l) Number of Wholesale distributing plants.

(m) Number of Towns having wholesale distribution.

In our evidence we pointed out that the existing type of wholesale distribution was the only kind possible under conditions that existed until recent years, which, due to the lack of highways and rural roads, together with climatic conditions, necessitated the erection of large capacity plants which obviously had to be erected on railway property, in order to receive tank car shipments.

Modern highways and rural roads, combined with efficient truck transportation, now make it possible that petroleum products at wholesale prices can be made available throughout all districts, in order that the farming industry can obtain their requirements, within easy reach of their operations at all seasons of the year, to give them efficient and economical operation.

As the farming industry is rapidly becoming fully mechanized in all their operations, it is not only a question today of having wholesale facilities in areas where tractors are operated, but all areas where power equipment is used in general farm operations. Therefore, a new type of distribution, comprising economical wholesale facilities, should be provided on the basis of population and not on tractors in the district.

This can be more clearly illustrated by the following information covering a few of the municipalities that do not enjoy equal facilities with other areas:

MR. HARVIE: Would you like to put that in now?

A It is a rather large map.

THE CHAIRMAN: You are offering that, Mr. Harvie?

MR. HARVIE: Yes, Mr. Chairman.

(MAP IN QUESTION IS NOW MARKED EXHIBIT "618".)

A The one we are offering as an Exhibit is up on the back.

Q THE CHAIRMAN: Precisely what does this map show, in a few words?

A As I said, Mr. Chairman-----

Q Is that a duplicate there?

A That is a duplicate.

MR. HARVIE: That shows the points that are mentioned as (a) to (m) inclusive in the brief as read.

A This is a map of the Province, and, as I said, we have shown on that map by the blue dots the 372 towns where there are 1035 oil bulk plants, according to the information given to us by the Commission Counsel. The brown triangle marks are other towns where there is no wholesale distribution to-day. The figures in red is the population according to the municipality, which are square. The number of the municipality is shown in all cases.

Q MR. COMMISSIONER LIPSETT: In small figures.

A In small figures.

MR. HARVIE: In black on the bottom righthand corner?

A Yes. The green figures are the tractors located in the total number of municipalities of the Province of Alberta

according to Dominion Bureau Statistics figures. In other words, the total there will compare with their tractor registrations.

Q MR. HARVIE: That is again divided up by municipalities, so many to each municipality?

A We have taken a few areas, so as to call your attention to it at a glance, showing the various municipalities numbered 1 to 15, where the distribution as we outline in the brief is not available or is not sufficient and consequently the farmer's cost of operation is increased and likewise our cost of operation , if we are going to deliver. In addition, taking the railway lines, you will note a wide variation as to distribution. In other words, you take Thorhild, you pass through possibly nearly 60 miles to Boyle, where you get the next wholesale facilities to supply the petroleum requirements to the farmer. Then you leave Boyle and you go to Lac la Biche, which is another 75 or 80 miles before there is any more distribution, and so forth on through the map.

We refer you to such municipalities as #858, which consists of 11 townships comprising 396 square miles, and having a population of 2,836 with 111 tractors. In this whole area there are only two bulk supply points, namely Fairview and Whitelaw, which necessitates persons travelling as much as 30 miles or more the round trip, in some cases, in order to obtain supplies.

In the case of municipality #827, which consists of approximately 7 townships, comprising roughly 272 square miles, and having a population of 126 with 2 tractors, it is necessary to travel an average of 20 miles to the west, which is 40 miles the round trip, or a similar

distance to the south-west and south-east in order to obtain supplies from the nearest wholesale supply point. The same holds true in the case of municipality #797, which consists of 8 townships, approximately 288 square miles, with a population of 658 and 13 tractors. In this case it is necessary to travel up to 20 miles to the West, or 40 miles the round trip, or 25 miles to the East, 50 miles the round trip, in order to obtain supplies of petroleum products.

On the other hand in the case of municipality #667, consisting of approximately 11½ townships, with 414 square miles, and 2,200 of a population with 46 tractors, the nearest supply points are Athabaska and Colinton, which are off to the south-west corner of the municipality, or to Boyle to the south and east in an adjacent municipality for supplies of petroleum products. This entails a journey in some cases of from 30 to 60 miles the round trip.

Municipality #607 consisting of 9 townships with an area of 324 square miles and having a population of 1,823 with 23 tractors, has no wholesale facilities within its boundaries and it is necessary for persons to secure their supplies from either Thorhild, approximately 15 miles to the south-west or Boyle, approximately 15 miles to the north and east, necessitating 30 miles to the round trip.

Municipality #581 consists of 9 townships, comprising 324 square miles, and has a population of 2,158 with 68 tractors. The people in this municipality have to secure their requirements from either Barrhead, in municipality #580 to the east, or from Robinson, in municipality #582 to the south-west.

Then again consider municipalities #486 and #485. Municipality #486 consisting of 10 townships, comprising 326 square miles with a population of 3,709 and 194 tractors, together with municipality #485 having 9 townships, 324 square miles, a population of 2,284 and 118 tractors, could stand wholesale distribution at Haight or Inland.

In the case of municipality #481, consisting of 9 townships comprising 324 square miles with a population of 2,876 and 140 tractors, there are two towns making wholesale distribution, namely Kitscoty and Staplehurst.

On the other hand, municipality #453, consisting of 9 townships with 324 square miles and having a population of 1,554 with 102 tractors, has no wholesale representation, the nearest supply point being on the railway line to the north in municipality #483, or the railway line to the south in municipality #423.

Proceeding west from Wetaskiwin, municipality #459, comprising 10 townships with approximately 360 square miles, a population of 3,452 and 149 tractors; and still further west to municipality #460, comprising 9 townships with approximately 300 square miles and a population of 1,646 with 24 tractors, we find there are no wholesale facilities for the distribution of petroleum products, the nearest being either to the north in municipalities #489 and #490, or to the east in municipality #458, which are many miles distant.

Municipality #361, consisting of 9 townships with 324 square miles, and having a population of 1,470 and 93 tractors, has no wholesale representation, the nearest being Cadogan, Provost and Hayter to the north, and Kerriemuir

and Compeer to the south, a distance of 15 to 20 miles, or a round trip of 30 to 40 miles.

Municipality #243, comprising 9 townships with an area of 324 square miles, has a population of 496 with 46 tractors and no wholesale distribution facilities, the nearest being Chinook in municipality #273 to the north and Cereal in municipality #242 to the east.

Q MR. COMMISSIONER LIPSETT: Just take a case like that previous one, #361. Cadogan and Provost and Hayter to the north. What distribution system do you suggest alternatively, just to get an example?

A Well, the distribution system we are putting in the Province to-day. In other words, we are scrapping the old form of distribution, where all our bulk plants were located on railways, and we are spreading them over the Province so that they take in other towns, whether they are on the railways or highways.

Q MR. PLOTKINS: At the present time how are those districts served?

A Some are served by truck. There are free deliveries made and there are many areas where there is no delivery. In the areas where delivery is made there are certain seasons in the year when they cannot get delivery and consequently they have to go to the wholesale point for their requirements.

Q But, Mr. Miller, is it not a fact that wherever there is in any one area wherever sufficient business develops, that a local cartage man makes it his business to go to the oil company - that is your company or some other company - and make a deal where he can service and serve that particular district in the most economical method and it is

possibly at that stage of development?

A Well, Mr. Plotkins, I am not dealing with wholesale cartage men or men making deliveries. All I am trying to illustrate is the distribution of wholesale petroleum products to the farming communities. In other words, a drayman or no drayman, if there are no facilities the farmer has to go to the nearest point and haul back his requirements providing there is no free delivery. But where there is free delivery in many areas due to the conditions of the roads, that is rural roads, at certain seasons of the year that delivery is off and the man still has to proceed in the off season to the nearest point to buy his requirements. In many cases they are travelling long distances so to do.

Q It has been brought out in evidence before this Commission that in a district where there are no bulk plants or no distributing facilities by the regular line companies, that is oil companies, that there has developed a system of truckers who make it their business to supply consumers, and while what you say is quite correct, eventually as the need or the concentration of tractors becomes great enough in any one locality that your company or some other company will erect facilities, there is a stage in most of these districts, as I have pointed out, that stage is now present, there is a stage where the ownership of tractors or cars is so wide-spread that your company or no company could profitably operate an outlet. So that at the present time they are served more economically by the existing system of a trucker, a local cartage man making it his business to go to a central point and get supplies and distribute it all over the place. I want to know what you

have to say in relation to what you are saying now?

A The only answer I can give to that is that your theory might be right adjacent to the City of Calgary or some large centre. But I doubt very much whether a drayman could supply these wide outside areas from any central point and taking back merchandise for the farmers.

Q It is not a theory?

A I am speaking of the general distribution in the Province so that all will have the same facilities instead of the few as exist to-day. I think further on in our explanation of the distribution, Mr. Plotkins, you might be a little better informed if you will let me proceed and finish up the brief.

Q Well, the only thing I want to point out is that there has been evidence here----

THE CHAIRMAN: Ask him. Do not bother pointing out anything to the witness.

Q MR. PLOTKINS: You said a little while ago it was a theory. As a matter of fact, it is an actual system that functions at the present time, at least you would not contend that these districts are without getting their supplies?

A Many of them are, yes.

Q You mean they cannot get oil?

A Quite right.

Q What do they do?

A They are not getting it from the source you say. I say there are many districts without petroleum distribution.

Q Without bulk stations or facilities----

A Without wholesale facilities.

Q Is your contention that you could adopt these particular

facilities you have in mind in these particular districts profitably?

A Quite right.

Q That is, you could sell to the consumer at less price than he is buying at now with the facilities that are at his disposal at the present time?

A I did not say at a less price. I do say this, that we can give far wider distribution to-day and make these petroleum products available to the consumer within easy distance of his operations at no greater price.

Q At no greater price?

A Yes.

Q MR. COMMISSIONER LIPSETT: Just to go back to this one municipality that you mention there, #361?

A Yes, Sir.

Q It is merely for the purpose of trying to understand the distribution system. There is municipality 361 and the point that you make is that under the present system it has to be supplied from Cadogan, Provost or Hayter in the north or at Kerriemuir or at Compeer in the south?

A Yes.

Q What better distribution would your system give in that particular locality or what do you propose?

A Our system has no regard to either railways, highways, or any other facilities that will enable distribution to be made. We instal our wholesale bulk plants for the farmer, whether it is on the railway, whether it is on the highway or whether it is in an inland town. For instance, we would possibly put a place in here Rosalind, which would give us central distribution to that municipality. Or we would come in here in this municipality the same way.

A. H. Miller.

Q Just take this Rosalind, and supposing you were going to put your bulk centre there. Would not you have to bring your product down along the railway line to Kerriemuir or Compeer, or down the other line to Cadogan, Provost or Hayter, and truck it out to Rosalind?

A As we pointed out in our previous evidence of distribution, we are setting in the Province 31 zones, with a central large capacity plant which feeds the small sub-plants that are established in the various districts, possibly within an area of 50 miles around the main bulk plant. As you will remember, we showed that map with 31 zones. In other words, we might establish our place at Consort, with large facilities, and this area around here of 50 miles, we put in small facilities all over and truck to these in full loads and then they are readily accesible to the consumer in the immediate vicinity.

Q And the farmer could come to these smaller distributing points and pick it up there?

A That is right.

Q You distribute that in bulk?

A We would go down from Consort to Rosalind and we would drop full truck loads into underground storage tanks, and carry a small capacity of lubricants and greases, and they would be readily available for the farmer anywhere in this municipality, say 3,4,5 or 6 miles,as the case may be, to pick these up at the same price he would have to go here and purchase them.

Q That would be as against the present system. Whereas he would have to go there to Condor or Kerriemuir or you would have to deliver to him from Condor or Kerriemuir?

A Yes.

A. H. Miller.

Q You might be delivering to him free from Condor or Kerriemuir under the existing system?

A Yes. Under our present system we would have to deliver to him from Consort.

Q You would not deliver to him at all, you would deliver to your branch and he would have to go there and collect it for himself?

A That is right.

(At this stage the Hearing was adjourned until 2:15 P. M.)

.....

Municipality #214, comprising approximately 55 townships with an area of 1,980 square miles, has a population of 1,793 with 100 tractors, and clearly illustrates the great distances between farmers in the municipality and the wholesale supply points, namely Sunnynook and Carolside.

Q THE CHAIRMAN: How do you get the record of tractors, has the Dominion Government some record which you have reference to?

A Yes, the Dominion Bureau of Statistics have records of all tractors by Provinces.

Q And by municipalities?

A And by municipalities.

Q Yes?

A Local Improvement District No. 61, comprising 9 townships with approximately 324 square miles, has a population of 1,220 with 49 tractors and no wholesale facilities available with the exception of those to the north in municipality #91, namely at Irvine and Larmour.

In the case of Local Improvement Districts Nos. 35, 4 and 3, and municipality #34, comprising 36 townships with 1,476 square miles, with a combined population of 2,115 and 299 tractors, the only wholesale facilities in the area are Skiff, Foremost, Remiscam and Etzikom.

In covering the various municipalities, either by railway or highway when making comparison, all points with wholesale facilities and those without, clearly indicate that wider distribution with facilities of

smaller capacity, making petroleum products readily accessible to the farmer at wholesale prices at intervening points, would benefit all parties interested.

In other words, these which I have enumerated are simply the municipalities and not the particular railway lines on which towns are situated, that is the intermittent points between one wholesale plant and another. Going down the line here you come down to Alderson and then you find there are two, four, six, seven intervening points until you hit the next distributing point which is Medicine Hat.

Q You are showing us on Exhibit "618"?

A Yes, Mr. Chairman.

We outlined that it is impossible to make free delivery at all seasons of the year, and, in addition, there are many areas where free delivery is not available, and consequently the farmers in these districts go to the nearest point and purchase their requirements f.o.b. the warehouse. In many cases, as illustrated heretofore, this is only accomplished by travelling great distances and consequently increasing their cost of operation by so doing, and likewise ours if delivery is instituted.

Until recent years, generally speaking, the majority of petroleum products required by the farming industry were consumed during the harvesting season. Consequently, larger deliveries were made, making it more economical to maintain a free-delivery policy.

With modern farming facilities, petroleum products are required over a more uniform period during all seasons of the year, which, naturally, combined with reduced consumption (which will be more accentuated in the future, due to modern, efficient, economical farm implements), have made the policy of free delivery extremely costly to all concerned: in fact, the time is rapidly approaching when an additional delivery charge must be made, in which case, of course, it must be borne by the consumer.

In our evidence we have submitted a comprehensive picture and statistics governing the petroleum industry and its relationship to the farming industry in the Province of Alberta and the Prairie Provinces. If we have made all necessary points clear to the Commission, we believe that when proper consideration is given to the problems of both concerned, they will at least agree that the present policy of wholesale distribution of petroleum products and its delivery system does not provide the necessities for present day requirements of the consumer.

If the policy of free delivery were discontinued, and this discontinuance observed strictly and equally by all, it would automatically bring about the wide new form of distribution essential for the economic operation of both the farming and the petroleum industries, by competitive conditions that will follow, namely, those interested, that is the industry, will make immediate arrangements to reduce the capacities of the existing distributing points, so that these may be spread evenly over the entire

Province, which will make these products readily accessible to the majority, in place of the minority. This would mean better service to the entire Province, and if economy results, the consumer will receive the benefit, as in the past.

Q MAJOR LIPSETT: I suppose you say, Mr. Miller, generally that it is sound economically to distribute the product to a large number of points in bulk waggons, that is from the railway terminal?

A Yes, because you see the trouble is today, Mr. Commissioner, that the farmer is buying, as we pointed out heretofore, in very much smaller quantities and we have to take our truck delivery facilities and make that small delivery to that consumer maybe 10 or 15 miles from the supply point.

Q In other words you might have to make 10 trips or 15 trips to distribute one waggon-load, one tank waggon-load quantity?

A That is so, sir, to that one consumer, we may make 8 or 10 deliveries to him in the one season or in the one year rather in small quantities, which may not amount to any more than one truck delivery load and now we maintain that under existing conditions, particularly in view of the rapid general mechanization of the farm industry, that these samll deliveries are going to be more numerous and more uniform over the year and therefore the cost is going to increase still further in making these deliveries unless we can go into the immediate centre of the vicinity where the farmers operate and dump

full truck loads into the underground storage tanks, making that material rapidly available to him at the price that he would pay if it were delivered to his farm or at the price that he would pay if he went 15 miles to the bulk supply point if delivery were not available.

Q I think you might put it this way, that delivery to the farmer must be paid for out of somewhere?

A Correct, sir.

Q And if you can, by this system, cheapen the whole cost of delivery, even if on the face of it some farmers were getting rather less service than they appear to be getting at the present, that, on the whole the cost of delivery would be reduced and ultimately everybody would share in that economy?

A That is right, sir.

Q I suppose that is the general drift of what you are putting?

A That is right, sir.

Q THE CHAIRMAN: And the farmer takes delivery as distinguished from being given delivery, do I understand that?

A Yes. In other words, Mr. Chairman, I do not think it is possible to have this new form of distribution generally throughout the Province unless free delivery is discontinued because the companies located as they are today, no doubt, would wish to continue to make deliveries as they are making them rather than cut their distribution out and spread it over the entire Province.

Q I do not think you were here when the United Farmers made their presentation, when they were associated with Mr. Brownlee as Counsel, and I do not know that you can appreciate just what was indicated there but they very earnestly pressed upon us the view that there was no free delivery at the present time, that the farmer paid for that. You of course do not share that view,-that it is a misnomer to say that the farmer gets free delivery, that he does not, that the farmer pays for that in the price he pays for his gasoline. You might, Mr. Frawley, put the proposition to the witness as put by Mr. Brownlee and perhaps you could do it more accurately than I might.

MR. FRAWLEY: No, oh no, certainly not, Mr. Chairman, but it seems to me that it is simply this, Mr. Miller, it depends upon what starting point you take. You have a posted price at Lacombe of say 17 cents, that is your posted tank waggon price at Lacombe and that is what the farmer pays?

A Yes.

Q But you have about 95%, I do not know, of your gallonage sold, not at 17 cents, but 16 cents. The price certainly as I understand it that Mr. Cottle is using in working out his cost and analysing his cost is for Lacombe, not 17 cents but 16 cents; in other words the effective price to the refining company, the oil company gets its 16 cents and your costs are between a certain refinery cost and 16 cents and not 17 cents. You see what I mean because so little of it is sold at 17 cents to the dealers but that is not a major factor, but that price

of 17 cents is maintained to the farmer, your effective price is 16 cents at Lacombe we will say but you charge the farmer 17 cents, so the people arguing free delivering against no free delivery say that the farmer pays 16 cents plus 1, that is 17 cents, not that the dealer pays 17 cents less 1, and you might say that we are in a vicious circle there, but the price which you seek to get for your gasoline in Lacombe is not the posted price but the posted price less 1 cent and that is determined by the commission you pay. You pay one commission to your dealer and you get a net of 15 cents, that is perhaps the best way I can put it, take the price at Lacombe it is 17 cents, you get for all that goes into the dealer a net of 15 cents, a net realization of 15 cents, do you not?

A 16 cents, Mr. Frawley. You are referring now to the discount we allow the dealer of 1 cent.

Q No, take the posted price of 17 cents and, let us take Lacombe and find out what it is, I think I can clear this up to your satisfaction, the posted price at Lacombe is, well that is remarkable, we will take any other place, Innisfail, is 17.8 cents. I was trying to get an even point but let us take 17.8 cents, that is your price at Innisfail, 17.8 cents that is your posted price at Innisfail. Now you sold to the dealer at 17.8 cents less 1 cent, that is his invoice price, is it not?

A To a 100% dealer.

Q Yes, that is right and less 1 cent, that is 16.8?

A Yes.

Q Then for what your agent, that is sold through the bulk agency at some place, Lacombe or some place near there?

A Yes.

Q And you pay the 1 cent commission on that?

A That is right.

Q And you realize, you, Mr. Miller, the British American Oil Company, realize 15.8 cents on that transaction to the dealer, that is so is it not?

A Quite right.

Q Now on the sales to farmers the posted price at Lacombe is 17.8 and your dealer agent at Lacombe makes---

THE CHAIRMAN: Are you speaking of Lacombe or Innisfail?

Q MR. FRAWLEY: Innisfail, I am very sorry, he sells at 17.8, does he not, that is the posted tank waggon price?

A To this consumer?

Q To the farmer consumer and you pay the Innisfail agent a 2 cent commission?

A We did pay 2¼.

Q Well do you pay him 2 cents now?

A Yes.

Q So that you have a net realization of 15.8 cents on both of those sales?

A Quite correct.

Q So you seek to recover the same for all your gasoline really and you do have a net realization on all your gasoline out of the Innisfail bulk plant of 15.8 cents, on that particular kind of gasoline, whether it goes to farmers or dealers, that is true is it not?

A Correct.

Q Then because the price is the same, the price you charge is the same, it is said that the farmer, because he pays more in the end, he actually pays more, while you get the same net, he pays 1 cent more than the dealer pays, then he says that he is paying for any difference, any extra service that he gets by way of free delivery over and above the dealer transaction, that is the best way I can put it to you to explain to you the force of the contention that the farmer is not paying at all, or rather that he is paying, that the farmer is paying 1 cent more than the other half of the trade, namely the trade to dealers?

Q THE CHAIRMAN: Well the 100% dealers have to sell it to the public as I understand you, he gets 1 cent.

MR. FRAWLEY: When the 100% fdealer sells to the general public.

THE CHAIRMAN: He gets 1 cent and when he sells to the farmer he gets 2.

MR. FRAWLEY: By way of commission?

THE CHAIRMAN: Yes.

MR. FRAWLEY: No, because the 100%

dealer is over on the retail side, the agent.

THE CHAIRMAN: All right, take the agent then.

MR. FRAWLEY: Mr. Miller's agent at Innisfail sells to two classes of people, the farmer and the dealer.

THE CHAIRMAN: The farmer and the dealer?

MR. FRAWLEY: Yes. He sells to the dealer at 17.8, less 1, and he makes a free delivery, if you like to put it, he makes a free delivery from his bulk plant which might be 10 blocks up in the town and puts it into this service station at 17.8 less 1 which is 16.8. The next minute he sells a quantity of gasoline to a farmer consumer and he charges him 17.8. No reduction. Now those are the selling prices. Mr. Miller gives different commissions to that man for those two transactions.

THE CHAIRMAN: What man?

MR. FRAWLEY: To that agent.

THE CHAIRMAN: That agent?

MR. FRAWLEY: Yes, he gives him 1 cent on what he sells to dealers and 2 cents on what he sells to farmers.

THE CHAIRMAN: So the farmer says if I am entitled to be classed with the dealer I am entitled to be put in the same category as the dealer, so therefore I pay 1 cent for my delivery.

MR. FRAWLEY: As to price.

THE CHAIRMAN: Yes, if I am entitled to buy my gasoline at wholesale I have paid 1 cent more.

MR. FRAWLEY: Yes.

THE CHAIRMAN: And the question is whether or not there is justification for saying that he should be treated in the same way as if he were a dealer.

MR. FRAWLEY: That is right, because take another class that I think bears right on this and I think you should keep this other class in mind in considering this, Mr. Miller has another class of consumer, he has the wholesale grocer and the packing plant, what is called the commerical consumer. On sales to him he pays the posted tank waggon less 1 cent, 100%.

THE CHAIRMAN: The same as the dealer.

MR. FRAWLEY: The same as the delaer. He puts him in the same class.

THE CHAIRMAN: And the farmer's argument is that he should be in as good a condition as that man.

MR. FRAWLEY: Yes, both of them are in the same class according to them, that is quite right.

THE CHAIRMAN: And if one accepts the view that he should be treated the same as these commercial accounts or dealers then he is paying a cent more.

MR. FRAWLEY: He is certainly paying a cent more although peculiarly enough, because by virtue of the different account, the company gets the same realization.

MR. HARVIE: You are comparing the

farmer in that case to a 100% dealer and the farmer is not a 100% purchaser.

MR. FRAWLEY: I am comparing him to the consumer. I am keeping it to the farmer consumer and the wholesale grocer consumer.

MR. HARVIE: And both those are not 100%.

MR. FRAWLEY: Oh no, the farmer is not 100%.

WITNESS: What Mr. Harvie says is quite correct. The dealer in order to secure the 1 cent discount buys 100% from that one supplier. The farmer may buy from the one supplier today and a different supplier tomorrow or next week.

MR. FRAWLEY: That I know. Now let us analyse that ----

A On the other hand, whilst you say, Mr. Frawley, there might be some thought that the farmer should have the same price as the dealer, the dealers throughout Western Canada consider that in view of the quantity they buy, compared to the farmer consumer, that they should be securing this preference in the price. As a matter of fact the dealers have agitated or did agitate for many years that they should buy at the price of 2 cents better than the farmer in which case they thought that they would be able to sell the farmer some of his requirements; in other words they felt that they were a dealer and in business, paying taxes and business taxes and so forth and consequently, they should have a better

price than the consumer who was not paying any taxes.

Q MR. FRAWLEY: That is right and I have thought that, if that is of any value too and that is why I found something so strange with respect to your practice of giving the commercial consumer, who is not in business, who is not paying taxes as are dealers, who is not part of the oil indsutry, you give him the same discount as you give your best dealer who is sticking to you all the year round?

THE CHAIRMAN: And he, as I understand, does not contract to deal exclusively with that compary.

MR. FRAWLEY: No, and I want you to follow that out.

A Yes, they do. The consumer does, Mr. Chairman. He agrees, he agrees to purchase 100% from us, that is the commerical consumer.

THE CHAIRMAN: He does.

WITNESS: And in consideration for so doing he receives 1 cent, the same as the dealer, off the posted tank waggon price. Now the difference is, I think, between the commerical consumer and the farmer consumer, is that the commercial consumer is in business, he has a business tax and other taxation. The farmer has no business tax and at the same time that commerical consumer is buying that gasoline not for resale but for use in his own trucks and cars as the case may be. He does pay business tax, Mr. Frawley, and the farmer does not.

MR. FRAWLEY: I do not know how far we

are going to pursue this, but let us pursue it a little further, you say the commercial consumer gives you an exclusive contract?

A Yes.

Q Frankly now, Mr. Miller, is there not a considerable variation from year's end to year's end in the nature and the amount of the gasolines which the small account will buy, providing, as soon as he owns his equipment and when you have no more hold on him he goes from you to the Imperial and back again to you, as he sees fit, is that not the fact?

A No, I do not think it is. Our experience with commercial consumers is about the same as with the dealer, whether he owns his own equipment or not, that is whether his equipment is paid for or not. He does as a rule buy exclusively from one supplier.

Q You know more about these things than I do and I take it there is not much mortality in your consumer accounts?

A No.

Q Then I put it to you this way, if a farmer would come to you on the 1st of January and would say "I will contract with your company, Mr. Miller, to buy all my petroleum products, I will enter into all the contracts you like", would you treat him just the same as the commercial consumer, you have satisfied the question of the exclusive contract there?

A I hardly think we should. I think the commercial consumer, having to pay more, having to pay his license on his dispensing equipment, his investment in his

dispensing equipment, the fact that he is buying by tank waggon load, in larger quantities----

Q Let me interrupt, you say the wholesale grocer,who gets from you a tank for his own truck, has to pay a license, oh,surely not?

A He has to pay his inspection fees and so forth, which is $5.00 a year.

Q Inspection to whom?

A He has to pay the Weights and Measures inspection.

Q Oh yes?

A And other incidental items, repairs on that equipment and the commercial consumer would probably purchase 2 or 3 or 4 or 5 thousand gallons a year, while the farmer consumer may purchase 500 to 1000gallons a year and that 500 to 1000 gallons might constitute about 8 or 9 deliveries, to that farmer consumer against the commerical consumer, his 3 or 4 thousand gallons might be delivered with just maybe 8 deliveries; in other words three or four times the quantity and three or four times less deliveries.

Q You may be speaking, there are commercial consumers and commercial consumers but let us talk about these small ones, because in the Province of Alberta there are commercial consumer accounts, very very small operations, operating, an undertaker we will say, with one or two units, taking very small deliveries at very infrequent deliveries, and you sell him at the 100% price, is that not so; before we come to the conclusion, state what the fact is, is it or is it not the policy to sell it to any commercial consumer who

will offer to buy from you and install in his back-yard dispensing equipment?

A Yes, we will sell to any commercial consumer providing he has equipment that we can make delivery to but I will say this, Mr. Frawley, that our experience is that very few commercial consumers will make the installation of dispensing equipment and maintain that equipment and pay Weights and Measures inspections yearly or any other incidental costs in connection with it unless he has a fair volume of gasoline to purchase each year.

Q Yes. Now Mr. Miller, you know what is happening, a great many of these commercial consumer accounts are not buying from the oil companies any more, they are going to the service stations and getting a concession from the service station operator on the strength of their being able to say if the station agent will not give the concession he can go to you and get it, is that not going on, or is it?

A What we find is that the large commercial consumer who puts in equipment and makes larger deliveries buys by tank waggon methods. The smaller commercial consumer you refer to, like possibly the grocery man who has only one unit and making local deliveries, he does, as I said in my evidence the last time, make special arrangements with some dealer to supply him at maybe 2 cents off the retail price, whatever that retail price may be or 2 cents over the tank waggon price.

Q Of course you know there is, that the retailers complain very strongly about this question, there are two re-

tailers here from Edmonton to give evidence and so we will have the benefit of their evidence but you know that is one of the things they are going to talk about, that is, it is part of their business, it is their business that you people have taken away from them by allowing this privilege, giving to the commercial consumer the wholesale and the 100% wholesale price. Now you know that is their complaint. Now while you are on the stand I would like the Commission to have the benefit of your views about that?

Q THE CHAIRMAN: Just assuming for the moment that you are right in the operations in that respect, what is the point in giving special rights to commercial accounts or farmers either, over and above other people?

A Well I think the commercial consumer price is based on competition, Mr. Chairman.

Q MR. FRAWLEY: How do you mean?

A I mean if the commercial consumer can buy at 1 cent off at one company he is not liable to go to some other company and pay a higher price.

No, but why?

Q THE CHAIRMAN: Why should any company prefer him, prefer him to the ordinary motorist?

Q MR. FRAWLEY: Why should he not be done away with, by statute if necessary, this discount, and is there any inherent virtue in it at all?

A You mean to the dealers?

Q No, these commercial accounts, why should the Swift

Canadian Company not go and buy their gasoline like I have to go and buy mine, at the service station, that is putting it baldly?

A Well you have two classes there, Mr. Frawley, you have the larger consumer, when you get the people like Swift Canadian, these people buy at consumer tank car prices.

Q Consumer tank car prices?

A Because they buy in tank car quantities.

Q And they get tank waggon service and buy in tank car quantities?

A No, the tank car simply delivers to them on the railway siding and they make their own deliveries to their own storage and supply their own equipment for dispensing it.

(Page 13,553 follows)

Q Well that is a rather large operation. I did not know that. I thought that the Swift Canadian in Edmonton anyway had their gasoline delivered to them in tank wagons into their underground storage?

A They possibly have but in the cities --

Q Perhaps you are talking about these big operations in Toronto. But what we have here in Alberta. I do not know of any commercial account that is taking tank car quantities?

A If there are there would not be many.

Q I think we can say right now there are not any. So why give these business firms, small and big, and it is the small one I am thinking of, because the question of quantity discount does not come in and could not possibly come in. I venture to say there are commercial accounts taking a negligable amount of gasoline from your company or some other company and still they are getting this under the posted tank wagon. The posted tank wagon less 1¢. That is a thing that frankly I cannot understand. Anyway answering the Chairman's question, where is the virtue in it or is it a vice you have to follow along with your competitors?

A It has always been the general policy to deliver to a commercial consumer at the same price as we deliver to a dealer. But coming back to the farmer consumer, as I say he buys in small quantities. He gets a delivery service. There are credits and other things that enter into it . I do not think there will be very much objection to the dealer with a large investment and paying business taxes and so forth --

Q You mean the commercial consumer account and not the

dealer buying at 1¢ less under posted tank wagon. Stick to the comparison of the two consumers, the business firm consumer and the farmer consumer. You spoke about free service. You do not mean to draw that comparison there. He pays for that.

A There is one thing you might have overlooked. The commercial consumer is really all city deliveries. While we deliver it is delivered in the City. We are not taking it out to the country on highways and byways and making delivery.

Q No.

MR. COMMISSIONER LIPSETT: I suppose there is another thing, Mr. Miller, when you deliver to the commercial consumer. From then on he has to give the service to get it out of the pump. In the case of the ordinary buyer, like Mr. Frawley, the retail dealer gives that service to get it out of the pump and put it into the car.

A That is right.

MR. FRAWLEY: Just not taking me not quite so far. Leaving it with the Farmer consumer and the wholesale grocer consumer. The farmer takes it. He has to do his own dispensing as well as he can and the commercial consumer has to too. That is a pretty good comparison. I was going to pursue one thing more with Mr. Miller. You say the business man pays taxes and the farmer does not. That is a pretty large question.

A It is an item that should be considered I think. Then on the other hand here is a commercial consumer providing his own storage and his own pump facilities and the main thing we are interested in is the storage. We take

our tank wagon and it is dumped into his tank like we do a dealer. When we sell to farmer consumers we have to supply him with the storage for that product.

MR. COMMISSIONER LIPSETT: Whether it is drums or whatever it is?

A Yes.

Q Supposing a farmer, Mr. Miller -- perhaps I am interrupting you?

MR. FRAWLEY: No I think I had finished.

MR. COMMISSIONER LIPSETT: Supposing a farmer on his own premises was willing to put up a pump in the same way that an industrial consumer customer does, would he then get these terms or would the extra delivery come into it in the case of a farmer.

A Not unless he was using it for a dual purpose; that he was using that pump and underground storage equipment for his own consumption and in addition was retailing to other consumers.

Q Doing the same thing to help you out?

A In other words you are putting him in the class of a dealer. He would have to be in the class of a dealer to secure the 1¢ discount.

Q There is no such thing as a farmer paying for the pump and getting the consumer discount?

A No Sir.

MR. FRAWLEY: If he wanted to though, surely if I wanted to go into business and buy a pump from you and put it up in my back yard you do not show any distinction whether he is an industrial consumer or just an ordinary consumer or a farmer consumer.

A I think Mr. Commissioner was thinking of the farmer who was buying a pump and a tank and would he get the 1¢ discount.

I said no.

Q But you would be prepared to sell a tank and pump to a farmer?

A Yes. We would sell it to him for cash if we had it.

Q Then we have a pretty exact comparison. We have in the city an industrial consumer and in the farmer an agricultural consumer, each one willing to go to your company and buy a pump and tank. You would sell to both of them wouldn't you?

A Yes we would sell to the farmer, if we had the equipment we would sell the farmer a pump and tank.

Q Then we have the farmer and the industrial consumer with a pump and tank. You say you would still sell to the farmer at 1¢ more than the other fellow.

A Yes.

Q Then you have to reduce all your reasons to the fact the man in the city pays taxes and the farmer does not?

A Yes.

MR. HARVEY: Plus distance of delivery?

THE CHAIRMAN: And volume and ease of delivery?

A And free drums and so forth.

MR. COMMISSIONER LIPSETT: And what?

A Free drums.

MR. FRAWLEY: No but we have eliminated that.

MR. HARVEY: You have only eliminated it by ifs. It is not the practice.

MR. FRAWLEY: I want some concrete submissions to be made to the Commission so that they may make recommendations. I am putting it to you frankly, are you prepared to have this Commission recommend that,

by Legislation or otherwise, if a farmer will put in the same facilities as the commercial consumer and will sign up your contract as a commercial consumer, that he is to buy at the same price. That is putting the matter perhaps --

A I think it is only a matter of policy. I doubt very much if the policy were adopted by the oil industry whereby a farmer putting in underground storage tanks and pump facilities, that he would receive one cent off, I doubt very much if there would be very many put that equipment in.

Q But I want to analyse the oil company's mind. We cannot do it all in one bite. What is your attitude? What would you do if you were delivering. What distinction must there be?

A I really think the dealer --

Q No not a dealer.

You spoke of a dealer getting one cent off. That is your comparison at Innisfail. The dealer got one cent off as against the farmer. You made that comparison.

Q That was for a different purpose.

A I really think a dealer in business should buy Petroleum products at a lesser price than a consumer.

Q You think that?

A I think that because for any merchandise I think the average consumer in any merchandise has to pay generally more than the dealer.

Q Exactly.

A Because the dealer is reselling it. He is in business for that purpose.

Q Then why sell the Western Grocers in Edmonton at the same price that you sell to your retailer. That is what

A. H. Miller

I am asking about. You depart from that.

A No I do not depart from it. You started out by making the comparison of the dealer at Innisfail as compared to the farmer. Why should we sell to the dealer at one cent less than we sell to the farmer.

Q Oh no.

A Then you also asked for the same comparison with the commercial consumer as against the farmer consumer.

Q Yes.

A I put it to you that it seems to be right and fair that a dealer whose very livelihood depends upon buying and selling your products should get it at a cheaper price than the consumer. That seems logically fair.

Q You do not follow that practice do you?

A I said I think any dealer regardless of what merchandise he buys and sells, should buy that merchandise at a lower price than the consumer.

Q Yes and I think he does. But we find that does not pertain with regard to gasoline.

A Yes the dealer does buy at a lower price than the farmer consumer.

Q But it is the industrial consumer.

A The industrial consumer buys at the same price as the dealer. But, Mr. Frawley, the industrial consumers in the Province of Alberta, I do not know how many there would be but I think you may have some figures.

Q We have a list of them.

A There are only just a comparatively few compared to the farmer consumer.

Q Yes.

A And as I said he has his equipment and we make tank wagon

delivery and the delivery is made in the town. We have not got to loan containers. We have not to extend credit. We have not to make deliveries in the country.

Q My position is simply this, I put it to you that you should be consistent and deliver to the commercial consumer at one cent more than to dealers or either abolish that or sell to commercial consumers, agricultural consumers and any kind of consumers with the one cent off. But do not draw a distinction between classes of consumers.

A I do not think there will be very much difficulty in abolishing the discount to commercial consumers because there are so few. If we decide we are going to sell to the commercial consumer at the posted tank wagon price he will no doubt pay that price.

Q Either that or bring the farmer consumer and all consumers down. It seems to me you are in an impossible position by preferring one kind of consumer against another. I am not talking about quantity discount. If this policy were built up on the question of quantity that would be a different matter. But I suggest to you we can find by going through our list of industrial concerns that buy a negligible amount of gasoline from you and still get the one cent off.

A There are some industrial consumers that are buying fifty and sixty thousand gallons a year.

Q There are some yes.

A Several buy in very very large quantities.

MR. NOLAN: I think the industrial consumer did not originate in Alberta?

A No.

Q It originated in Eastern Canada and volume was the reason.

A Volume was the reason.

Q And ease of delivery?

A Ease of delivery, yes.

Q And that was true of the big cities of Eastern Canada ?

A Yes.

Q And it became part of the operation of the Industry did it not and spread as the industry spread over the country and that is why we have it here?

A Yes. For instance, many, at least the large commercial consumers in Western Canada are nation wide orgonizations.

Q Yes. And they demand the treatment here that they are getting at another branch elsewhere?

A Yes.

Q Where the volume may be bigger?

A That is quite right.

Q There was not any conflict in the Eastern states as between the commercial customers and the farmer price as there is out here. That did not arise did it?

MR. FRAWLEY: It arises here. We have a peculiar economy.

MR. HARVEY: That does not arise because the farmers have not got tanks. When they do at that time it will be dealt with.

A Our policy is the same in the west as it is in the east as far as the farmer consumer is concerned. The farmer consumer in Eastern Canada pays the posted tank wagon price the same as he does in the West. We do not make any allowance and many of those farmers in the East handle far greater volume than some do in the West.

MR. COMMISSIONER LIPSETT: I suppose in practice, Mr. Miller, the question of a farmer putting in a tank on his farm scarcely ever has arisen out here, has it?

A Very very few.

Q It is not a practical question at the moment?

A You might find a large farmer, possibly a stock farmer, operating a truck in addition to other equipment, tractors and so forth, might put in a pump, might buy a second hand pump and tank and use them but they would be very few and far between.

Q Would that be where he was doing some retailing?

A No, there are some cases where a large farmer has installed a second hand pump and equipment.

Q At his own expense ?

A At his own expense, yes. In order that he can keep track of the gallons that is going out to his various users of equipment.

MR. FRAWLEY: One more final question. You know it is a practice, wherever it started, it is a practice that the commercial consumer account has caused a very upset condition in the retail trade in the cities of Calgary and Edmonton?

A I can say this Mr. Frawley, that I have not heard of a complaint from any dealer for several years as to our policy in selling commercial consumers at the same price they buy at.

Q Surely your company is not any different from any other company. You know you have retail dealers that have taken commercial consumer accounts and have given them a better price?

A That is their privilege to do it.

Q And we have one service station operator outbidding the other service station in getting the commercial consumer accounts. We have these commercial consumers going from

one station to another, with a better price as they go along. We have no price stability in the retail trade in the cities of Edmonton and Calgary and that perhaps is the very reason why I did not understand when you were on the witness stand before, that there was not any retail price in the cities of Calgary and Edmonton. If there is any such situation I suggest it is the commercial consumer price that is the reason for it.

MR. COMMISSIONER DIPSETT: How does the retailer manage to get the commercial consumer account if the commercial consumer can buy at the same price as the dealer?

A As I said, Mr. Commissioner, a commercial consumer that buys from the dealer is generally a man that buys in very small quantities and only has one possibly small delivery unit. The only people, commercial consumers that buy in tank wagon lots are those which have sufficient volume to warrant an investment in pump and tank to dispense it through their own equipment. They are not going to make that investment unless they have sufficient volume to put in the tank and other equipment. They are going to go to some retailer and make some arrangement with him and pay possibly two cents over the tank wagon price.

Q Instead of putting in the pump?

A Yes. Rather than make the investment in the pump and equipment and have to maintain it and pay the weights and measures inspection every year and all those things.

Q In other words it is the threat of being able to get this commercial consumer price that enables them to make a better deal with the retailer?

A Well I do not know whether it is a threat or not,

Q I do not mean that in any offensive way. It is the possibility.

A I think it is that the average retailer is open long hours and naturally he considers that a commercial consumer buys far greater quantities than the ordinary motor car buyer would and with that he possibly has the opportunity of selling other associated lines, such as larger sales of lubricating oils and greases, and accessories and tires, and therefore, he goes after that business with a viewpoint of using the gasoline price as a leader to secure sales of the other lines which he carries. Gasoline we find today all over Canada, and I think it is true from reports we have in the United States, that many dealers today are using gasoline purely as a leader to make profit on the associated lines that they sell with gasoline, such as tires getting the lubrication, oil and spark plugs and fan belts and other accessories. I still think however, that a dealer should buy at a lower price than the consumer.

MR. FRAWLEY: Excepting certain kind of consumers?

A Well they are very very few Mr. Frawley. Commercial consumers, I do not know how many there are in this Province but very very few, commercial consumers with pump and equipment. You will find that the majority of those are very large consumers.

THE CHAIRMAN: Do you think it is sound to limit the people who may be described as commercial consumers to those who buy in quantities which the dealer would?

A Well I think this, Mr. Chairman, that the discount to the

commercial consumers should only apply if he has sufficient volume of business to warrant it. In other words if one of these large transportation companies or take the Swift Canadian and the Canada Packers, using forty or fifty thousand gallons a year, if we could sell those people at the tank wagon price less 1¢ we would rather do it than see them put in tank facilities and buy at the tank car.

MR. FRAWLEY: You know that does not pertain in the Province of Alberta. You know that. You are speaking from the Head Office.

A It would pertain, Mr. Frawley, with many consumers or commercial consumers in the Province of Alberta. For instance take the transportation and cartage companies and take the Swift Canadian. I would venture to say that if the Swift Canadian had to pay the retailers price they would put in a storage tank and buy in tank car quantities and dispense their own because they have enough money to do it. A man with fifty thousand gallons volume has five or six tank cars a year.

MR. MCLEOD: You know something about general business conditions I suppose, buying and selling in this Province and elsewhere, it is the practice for instance in sales to mines that they get a better price for their supplies which they consume than I would have to pay if I went to buy. That is a fact from your knowledge of general business conditions.

A You say that the mines could buy at better prices than you could buy for.

Q Yes, surely.

A I would think so because they buy in greater volume.

Q Yes and there is the question of credit and so forth.

A They are on the wholesale list.

MR. FRANLEY: The question is whether they should be. They use the big stick and they say, "We never bought anything retail in our lives and we do not intend to for gasoline." and you follow right along but the farmer you put him up.

A As I said heretofore I do not think you will find any industry that buys any merchandise at the retail price.

THE CHAIRMAN: Except it ought to be a matter of volume. What does it matter whether you call a man a farmer or a commercial account or a coal mine or anything else. Are you concerned for selling cheaply unless he is buying in quantity. Why should a farmer who is buying very little gasoline be preferred as against any members of the public. And equally, if he is buying in great volume why should he not have the same preference that you give to other people in all walks of life who buy great quantities?

A Well we maintain one policy in the various classifications. A farmer consumer whether he buys two thousand or two hundred a year secures the same price.

Q You find it practicable to provide people by their occupations rather than by the amount they buy.

A I think so Sir, yes.

Q All right.

MR. COMMISSIONER LIPSETT: I suppose the industrial consumer in a way is really buying a gasoline and reselling it as part of his finished product?

MR. FRANLEY: That may be said likewise that the farmer is only buying it to harvest his crop and sell his crop.

THE CHAIRMAN: All right Mr. Harvey.

MR. HARVEY: I think you have finished that part of your brief. Now the next section is the Montana situation.

A This picture of Montana that we are going to present has a two fold purpose. One is to clear up any misunderstanding as to the price basis and policy of price in the State of Montana and the other is to show that they are comparable to our policy in the Province of Alberta, and in addition to show that the price in Alberta, the tank wagon price, is lower for an equivalent gallon than it is in the State of Montana.

REFINERY AND WHOLESALE DISTRIBUTION

together with

POSTED TANK WAGON AND RETAIL PRICES

We submit as Exhibit No. 619 a map showing the distribution in the State of Montana, together with the Posted Tank Wagon Prices as at July 20th, 1939. This may further conveys the following information:

(MAP IS NOW MARKED EXHIBIT #619)

(a) Four Base Refinery Points (colored blue), together with the basic tank wagon prices as shown covering Ethyl Gasoline, "Q" Gasoline and white 3rd Structure Gasoline.

(b) All other Refinery points as shown on the maps are colored brown.

(c) All "Key" price points are colored yellow. The price at these points is based on one of the four basic Refinery points, namely Cutbank, Shelby, Lewistown and Billings, plus freight to destination. You will note that there are intermediate points which are not colored. These points have a price comparable to the price at the adjacent "Key" point. In other

words, they are located in the tank wagon area of the "Key " points." That is very similar to the policy in the Province of Alberta where immediate adjacent towns secure the same tank wagon price as the bulk point .

MR. FRAWLEY: That is an inland dealer?

A That is an immediate adjacent town, or inland dealer, yes Mr. Frawley.

"(d) In addition to the four Basic Refinery Points there are 3 other Zones, namely 7,3 and 4.

NOTE: Zones 1, 2, 5 and 6, namely Cutbank, Shelby, Billings and Lewistown are the four Refinery Basic Points, the prices at which, plus freight to destination constitute the tank wagon price at destinations in these zones.

Zones 3 and 4 are based on Group Three plus freight to destination." I might say before we had any Refineries in Western Canada or before the companies that did not have refineries in Western Canada operated they shipped their gasoline from Group 3, which is the Refinery Point in the United States, plus freight to destination and that constituted the tank wagon price wherever it may be.

MR. FRAWLEY: Even in Calgary, that is how they worked out the Calgary tank wagon?

A That is right.

Q Oklahoma plus freight.

MR. COMMISSIONER LIPSETT: Group 3 is what?

A Group 3 is the Refinery Point in Oklahoma.

Zone 7 is based on Portland, Oregon, plus freight to destination.

Therefore, the tank wagon prices existing in the State of Montana are all based on Refinery Points plus freight

to destination." In other words exactly the same as in the Province of Alberta except in the Province of Alberta we have one Refinery Base Point which is Calgary.

(e) Principal Highways.

(f) Major Cities and Towns.

(g) Tank Wagon Prices (in black) shown in wine gallons covering each point, under grades 1-2-3, namely Ethyl "Q", and White, in black rectangles." Those are those squares.

(h) Immediately adjacent to these prices are the tank wagon prices converted from wine measures to Imperial Gallons in red, and for comparison purposes with the Province of Alberta, these are the prices to be considered.

(i) Adjacent to the rectangles are shown tank wagon prices in green. These cover sub-normal prices or allowances where in effect and are the sub-normal net tank wagon prices on Grades 1-2-3, namely Ethyl, "Q" and White.

NOTE: Each of the 4 Basic Refinery Points, namely Cutbank, Shelby, Lewistown and Billings, have their respective tank wagon areas, as indicated in the areas shaded surrounding these 4 Basic Points.

In other words these sub-normal prices are due to some local competitive condition existing which created these sub-normal prices, somewhat similar to our sub-normal prices we have in Southern parts of Alberta, having to meet this cut-throat competition from Montana.

MR. COMMISSIONER LIPSETT: You see they are general -- They are scattered. Some are normal. It is not the extreme. In other words we shade the immediate tank wagon area, each tank wagon price is the same as the supply point in the centre. That is similar to our Canadian operation.

In other words, the tank wagon price prevailing at the Refinery Basic Point applies to the town immediately adjacent in this area at all four points.

Dealing with Zone 1, we would call your attention to the fact that Cutbank is really the Refinery point for Shelby, or in other words, Cutbank and Shelby should be classified as one Refinery Base Point. Therefore, the freight rate in Zone 1 is based on Cutbank and the freight rate in Zone 2 is likewise based on Cutbank and not Shelby; the reason being that the freight rate from Cutbank to destination in Zone 2 is lower than the freight rate from Shelby to destination in Zone 2, and Shelby being the intermediate point is entitled to the same rate as Cutbank. The fact remains, however, that at the basic points, namely Cutbank and Shelby, tank wagon price is the same and governs the price at all points in Zone 1 and Zone 2 which with freight to destination constitutes the tank wagon price.

All prices indicated on the map are as at July 20th, 1939, although there is no official price list available as that date. However, to further substantiate the prices shown, we submit as Exhibit No. _____ an original copy of the official Tank Wagon Price List of one of the major companies, effective March 23rd, 1939.

I might say that that official price list was given to us in confidence and I do not want to express or to give the name of the company unless you require it, Mr. Chairman, in which case I will be glad to give it to you.

THE CHAIRMAN: No, we do not want anything in confidence.

MR. HARVIE: That is the official price?

A This is the original official price list.

Q That you refer to in your brief?

A Yes, as of March 23rd, 1939, and there is a copy of it in each brief.

Q MR. FRAWLEY: Is this the one effective March 23rd, 1939?

A That is right.

Q It is dated "Butte, Montana"?

A That is right.

MR. HARVIE: March 24th, 1939.

MR. FRAWLEY: Of course my position about that, Mr. Chairman, is that it all depends upon how far this Montana situation is going to be pursued and if it is going to be pursued to the length that Mr. Harvie appears to be pursuing it, we will have to know what company this is that pays these prices.

MR. HARVIE: Do you want to mark that as an Exhibit.

THE CHAIRMAN: I am not marking it if it is not going to be received for all purposes. You do not want to get yourself in the embarrassing position of having pledged yourselves not to disclose the name and then put in evidence something which will require you to give the name under cross-examination and we will certainly require you to give it if anybody asks for it. You are not going to be treated differently from anybody else. Equally we do not press you to put it in.

MR. HARVIE: It might be submitted as a statement, submitted by Mr. Miller, a statement that ---

MR. TAYLOR: What is the official view?

THE COURT: That is not admissible, Mr. Taylor.

What is right?

It is not admissible, Mr. Taylor.

MR. TAYLOR: If counsel by condition cannot the-

THE COURT: Gentlemen, do that if all concerns upon for the this matter

continuation is going to be pursued on, if it is going to

pursued by Mr. Taylor that is. Surely counsel to be pursuing it

We will have a show-up for Tuesday this to that kye floor

ration.

MR. TAYLOR:

Recall it.

THE CLERK:

going to [illegible] Tuesday. You do not want to

not possible [illegible] Tuesday [illegible] I am not [illegible] it is [illegible]

going to [illegible] Tuesday. [illegible] continuation [illegible] pleading

Tuesday, no [illegible] Tuesday [illegible] Tuesday [illegible] evidence.

[illegible] Tuesday [illegible] Tuesday [illegible] Tuesday [illegible]

[illegible] Tuesday [illegible] Tuesday [illegible] Tuesday [illegible]

it is.

MR. TAYLOR:

[illegible], [illegible] [illegible] [illegible] that ---

THE CHAIRMAN: That is all right, Mr. Harvie, but Mr. Miller is a person who is subject to cross-examination and the first question that one would ask, who wished to find out how accurate his information was, "who gave it to you" and if he is asked that question he will have to answer it.

MR. FRAWLEY: To me probably the serious part of it is ----

THE CHAIRMAN: I do not know, I am not curious to know but I am not going to make him a special witness who may withold certain information.

MR. FRAWLEY: Mr. Miller's memorandum says, "However to further substantiate the prices shown we submit as an Exhibit ", shown on a map apparently, we submit this confidential tank wagon price list, so I am afraid if it does not go in, if you elect not to put it in, in view of what the Chairman says, it destroys that map, doesn't it?

MR. HARVIE: No, it is just a further substantiation of it.

MR. FRAWLEY: Then all you have done, Mr. Harvie, is really to take this document, which I will not look at ----

MR. HARVIE: I say we have done more. I say Mr. Miller has satisfied himself that those are the tank wagon prices.

MR. FRAWLEY: Well whatever the fact is.

WITNESS: I am going to deal with the matter on individual cases further on here where we give the actual price as existing.

THE CHAIRMAN: We are perhaps taking unnecessary time about it but I want to make it clear that we are not going to do any different about this than anything

else. We are not receiving information in confidence, that others cannot have full access to and full information about. That is the position we have taken throughout and we are going on with it and now is the time for you to exercise your discretion.

MR. HARVIE: Yes, I think so.

MR. J. E. A. MACLEOD, K.C.: Mr. Chairman, on behalf of my client I certainly object to this going in and I think so far as the figures on this map are based upon it, unless Mr. Miller has gone down there and ascertained these, I think information of that should not go in. Further I submit, Mr. Chairman and Mr. Commissioner, that this is not a matter for this Forum at all. It is the Montana prices which might be quite relevant in an Inquiry under Dominion auspices but I submit that this Commission really has nothing to do with this question of prices in Montana.

THE CHAIRMAN: Well we have a great deal to do with prices in Alberta and so far as the price in Montana affects them we are interested in them and that is all.

MR. HARVIE: You will remember, Mr. Chairman, that Mr. Miller, when he was last here, it was at the request of the Commission he agreed to get this information.

THE CHAIRMAN: Quite so but we are discussing this simple point, can you put in certain information and withhold answering as to where it came from?

MR. HARVIE: I quite realize that. At the moment if I might, I will talk the matter over with Mr. Miller.

THE CHAIRMAN: We will adjourn for five

minutes. You might as well settle it among yourselves now. We want to go on in an orderly fashion and you can let us know when you finish your discussion.

(An adjournment of five minutes was here taken.)

THE CHAIRMAN: Well Mr. Harvie:

MR. HARVIE: Mr. Miller is prepared to give the source of the information.

WITNESS: I find, Mr. Chairman, that I am within my rights, as far as the supplier of the price list is concerned, to present it and will say that this is the authorized price list of the Continental Oil Company as at that date covering the names of the points enumerated thereon and supplied to us when we went to Montana between July 20th and July 27th.

THE CHAIRMAN: All right.

(DOCUMENT PRODUCED HERE MARKED AS EXHIBIT "620".)

Q MR. HARVIE: All right, Mr. Miller, proceed.

A Since that date, that is March 23rd, 1939, with few exceptions, the Tank Wagon Price has increased ½¢ per gallon, or in other words, the prices as shown on the map are approximately one-half cent per wine gallon higher than the original tank wagon price list that became effective March 27rd, 1939.

The differentials between the various grades of Gasoline are as follows:

"Q" Gasoline Tank Wagon Price is 1½¢ lower than Ethyl Gasoline; White Gasoline (Third Structure) is 1¢ below the Tank Wagon Price of "Q" Gasoline, or 2½¢ per gallon below the price of Ethyl Gasoline.

SERVICE STATION POSTED RETAIL PRICES

All dealers and service stations post their own retail prices, the differential between Tank Wagon and Retail being approximately 4¢ on Ethyl and "Q" grades, and 3¢ on White Gasoline.

We submit as Exhibit No.____ a list of retail prices as existed between the period of July 17th and July 26th, 1939, according to the towns listed in the various parts of Montana. On this list we also show, in Red, the Posted Retail Prices converted to Imperial Gallons for proper comparative purposes.

THE CHAIRMAN: Now just a minute, Exhibit "620" was your Exhibit on Page 4, was it not?

MR. FRAWLEY: Yes.

THE CHAIRMAN: Now you are referring to the Exhibit on Page 5.

MR. FRAWLEY: You will find it after the next yellow section in the brief.

THE CHAIRMAN: We want to have it marked. We have Exhibit "620" in. Now we have passed to the top of Page 5.

MR. HARVIE: He is explaining just what it is before we present it.

MR. FRAWLEY: Exhibit "620" in your book, Mr. Chairman, follows on right after the first yellow dividing line and now we are coming to Exhibit "621".

THE CHAIRMAN: They are no good in the book unless Mr. Cutler gets it, that is all I am suggesting.

(DOCUMENT SHOWING LIST OF RETAIL PRICES HERE PRODUCED AND MARKED EXHIBIT "621".)

THE CHAIRMAN: Now Exhibit "621" is the one

referred to at the top of Page 5.

MR. HARVIE: Yes, Mr. Chairman.

Q MR. HARVIE: All right, Mr. Miller, you should begin at the last sentence in the first paragraph on Page 5.

A These posted retail prices, in wine gallons, however, as shown on this Exhibit, do not include State Gasoline Tax of 5¢ per gallon and Federal Tax of 1¢ per gallon. Therefore, to these wine gallon prices as shown on this Exhibit must be added 6¢ per gallon.

That is marked on the Exhibit, it makes mention of that area on the Exhibit.

We further submit as Exhibit No. _____ eighteen photostatic copies of invoices.

In addition to the photographic copies in the brief we submit as an Exhibit the original invoices.

MR. HARVIE: There is a group of invoices being numbered 1 to 18 which are the original invoices from which the information on Page 5 was taken and I think that might be marked as the original Exhibit "622".

THE CHAIRMAN: Are the photographs merely copies?

MR. HARVIE: Of the originals.

THE CHAIRMAN: Yes. Well do you need both in?

MR. HARVIE: No, we do not need both in. We will mark as Exhibit "622" the originals but in the book you have photostatic copies of them.

THE CHAIRMAN: Yes, the original will be Exhibit "622 " and the copies are merely for our information.

MR. HARVIE: Yes.

THE CHAIRMAN: Now what is Exhibit "622" called, "Invoices"?

MR. FRAZLEY: Covering retail purchase of gasoline with dates.

(ORIGINAL INVOICES PRODUCED AND MARKED EXHIBIT "622".)

WITNESS: The invoices, the name of the town, where purchased, the grade that was purchased and the price, in wine gallon.

e further submit as Exhibit No. "622" eighteen photostatic copies of invoices secured on purchases of gasoline made at seventeen points throughout the State of Montana, which include the State and Federal taxes, amounting to 6¢ per wine gallon, and when converted to Imperial Gallons are as follows, and these are shown as follows, and then we have extended that, the Red figure constitutes the wine price converted to Imperial Gallon price.

(Go to Page 13,576)

INV. NO.	DATE	TOWN	GRADE	PRICE per GAL Wine	Imp.	
1	July 18	Browning	2nd	23	27.6	R
2	" 18	Coram	2nd	24.5	29.4	R
3	" 18	Browning	1st	26.5	31.8	R
4	" 18	Ronan	1st	26	31.2	R
5	" 18	Kalispell	2nd	24.5	29.4	R
6	" 19	Missoula	2nd	21	25.2	R
7	" 19	Butte	3rd	20.5	24.6	R
8	" 20	Deer Lodge	1st	26	31.2	R
9	" 20	W.Yellowstone	2nd	25	30.0	R
10	" 21	Cooke City	2nd	25.5	30.6	R
11	" 21	Red Lodge	1st	26	31.2	R
12	" 22	Laurel	1st	24.5	29.4	R
13	" 22	Billings	2nd	22	26.4	R
14	" 22	Lewistown	2nd	23	27.6	R
15	" 23	Great Falls	2nd	24	28.8	R
16	" 24	Conrad	3rd	21	25.2	R
17	" 25	Shelby	1st	25.5	30.6	R
18	" 25	Cutbank	2nd	22.5	27.	R

("R" indicates figures in RED)

Q THE CHAIRMAN: Yes?

A TANK CAR PRICES:

Tank Car Prices are generally established at a price of 2½¢ below the normal posted tank wagon price at destination.

Q MAJOR LIPSETT: Mr. Miller, just before you pass from the invoices, perhaps you might let us understand a little more clearly what they intend to show?

A Well further on there, I am trying to show or at least we are pointing out there, Mr. Commissioner, that the prices in Alberta are lower than they are in the State of Montana, that is the whole reason for those.

Where the sub-normal Tank Wagon price exists, that is there is a sub-normal tank wagon price as shown in the green figures on the map, where the sub-normal tank wagon price exists, individual special arrangements are made. In the majority of cases the Tank Car buyer has to absorb one-half the difference of the sub-normal market price:

Hart Refining Company, Missoula, Yale Refining Company, Billings, and the Home Oil and Refining Company, Great Falls, quote 2½¢ below the posted tank wagon price for Tank Car shipments, at destination.

Continental Oil Company, Lewistown, quote 2½¢ below the posted tank wagon price, and where the tank wagon price is sub-normal the difference is split 50/50 between the Jobber and the Shipper.

This information is submitted in order to make a comparison between the price structure prevailing in the Province of Alberta, and those that prevail in the State of Montana.

It is quite obvious to all concerned that Montana is a very competitive State, resulting in prices being kept at the lowest possible levels, naturally regulated by competition. In addition, the State of Montana has many advantages and benefits over the Petroleum Industry in the Prvoince of Alberta, both as to Crude supplies, lower investment in refinery facilities, lower investment in wholesale distribution, lower freight rates, lower truck rates, and consequently lower Marketing Costs.

For instance, in order to make a fair comparison of freight and trucking rates we quote the actual rates at a number of points in the State of Montana compared to those in the Province of Alberta, as follows,

and below there we show you the competitive rates, and you will note that on a 48 mile haul in Montana there is a rate of 1.164 per gallon, less than in the Province of Alberta.

COMPARATIVE RATES ON GASOLINE IN TANK CARS

ALBERTA RAIL

FROM	TO	Mi.	Rate per Imp. Gal.
Calgary	Didsbury	48	1.60¢
"	Innisfail	74	1.92
"	Mintlaw	97	2.32
"	Tilley	123	2.56
"	Stirling	146	2.80
"	Edmonton	195	3.12

MONTANA RAIL

FROM	TO	Mi.	Rate Per Imp. Gal.	MONTANA ADV.
Billings	Broadview	48	.436¢	1.164¢
Cutbank	Pershing	75	.9504	.9696
Cutbank	Power	98	1.109	1.2110
"	Gt. Falls	125	1.465	1.0950
Billings	Mocassin	147	1.86	.9400
Cutbank	Dodson	200	2.53	.5900

COMPARATIVE RATES ON GASOLINE HANDLED BY TANK TRUCK

ALBERTA TRUCKS
(Commercial)

FROM	TO	MI.	Rate per Imp. Gal.
Calgary	Standard	50	1.10¢
"	Stavely	73	1.34
"	Huxley	96	1.60
"	Monarch	124	2.00
"	Coldale	152	2.30
"	Milk R.	202	2.78

MONTANA TRUCKS
(Commercial)

FROM	TO	MI	Rate per Imp. Gal.	MONTANA ADV.
Gt. Falls	Brady	49	.80¢	.3000¢
"	Virgelle	74	1.00	.3400
"	Laredo	101	1.40	.2000
"	Boulder	124	1.40	.6000
"	Deer Lodge	150	1.60	.7000
"	Ennis	202	2.15	.6300

.....

MR. HARVIE: Then we have a statement for freight rates, 1 gallon from destination to key points in the State of Montana.

MR. FRAWLEY: Are those referred to on Page 7, you are using the same?

MR. HARVIE: Yes, this will be the next Exhibit.

A. H. Miller

MAJOR LIPSETT: Those are different to the ones on Page 7?

A Different points, sir.

Q That is what I mean.

A Yes.

(STATEMENT PRODUCED AND HERE MARKED EXHIBIT "623".)

(Go to Page 13,581)

A. H. Miller.

Q MR. COMMISSIONER LIPSETT: The very first one that you have given us, Calgary to Didsbury?

A Yes.

Q As compared to Billings and Broadview, 48 miles. Does that mean the American rate is only about 25% the Canadian rate?

A Yes, Sir. We have computed that on the Imperial measure. You note there we say "Rate per Imperial gallon from Calgary to Didsbury, 48 miles, is 1.60 cents per gallon." The rate from Billings to Broadview, which is 48 miles, is .436 cents per gallon, which gives Montana an advantage of 1.64 cents, for an equivalent gallon.

Q It means that the Canadian rate is nearly four times as much as the American rate, is that right?

A Three times. Over three times.

Q It is well over three times?

A Yes.

Q Almost four times, is it not?

MR. HARVIE: Very close.

Q MR. COMMISSIONER LIPSETT: From Calgary to Innisfail, 74 miles, is double the American rate from Cutbank to Pershing, over a mile longer?

A Yes.

MR. FRAWLEY: More trouble on rates, eh?

Q MR. MACLEOD: Is there any reason why the same points would not be used for trucks and freight? There is no suggestion that these are selective?

A No, we just picked them at random and these Exhibits there show other comparisons at all points. You will note that the comparative rate on gasoline handled by truck, there is not such a wide discrepancy in the transportation costs.

Q MR. COMMISSIONER LIPSETT: I was going to ask you one

A. H. Miller.

further question, Mr. Miller. Are these rates that you have shown as in existence in Alberta, are those prior to this new reduced rate?

A Yes, as at July 20th. I am dealing with everything on that basis. There has been reduction in the rate since but providing-----

Q MR. HARVIE: For some companies?

A The company may conform and will be willing to agree to certain conditions and regulations.

Q MR. COMMISSIONER LIPSETT: You have to make a special contract to get this new reduced rate?

A Yes, and there are only two companies so far who agreed.

MR. FRAWLEY: I do not want to put the Commission off on a tangent. But when I returned from my holidays I was told that had been published as a rate and that the agreed charge angle had been dropped and that the railway companies had published that as a standard tariff to all shippers. That these reduced rates that they had formerly on the agreed rates was now open to all shippers.

MR. COMMISSIONER LIPSETT: Is not that only for a month?

MR. FRAWLEY: That is a question. It is true it has been continued from time to time and now it has been continued until November.

MR. COMMISSIONER LIPSETT: Have you looked at the schedule. It is for a short time.

Q MR. FRAWLEY: How far does the current schedule go, to the end of November?

A I was going to say the extension given; in other words, the railways agreed to make this temporary reduction to all shippers, which temporary rates expire on October 30th.

A. H. Miller.

Q October 30th?

A And those companies that have not agreed at this time, if they do not agree before October 30th they cannot enjoy those reduced rates.

Q It has been extended three times now. The current extension in force is, I believe, the third extension?

A I think the reason is, I do not know whether you are familiar with it or not, but the reason is I think that the railway Board are holding a meeting in Alberta on October 2nd.

Q Yes?

A In connection with the complaints from the Alberta Producers Association and so forth, and, therefore, they have agreed to allow these as temporary rates until after that meeting. They told us that will expire on October 30th.

Q On the 3rd of October when the Transport Board comes here, that matter of agreed charges will not come before that meeting?

A I do not know.

Q Oh, no, not at all.

A I understand that they are to discuss things----

Q They are here for the Province of Alberta and the Alberta Petroleum Association on the whole question of crude rates and refined rates. But the matter of agreed charges is not coming up at all.

MR. COMMISSIONER LIPSETT: Has it not got to come up somewhere, Mr. Frawley?

MR. FRAWLEY: Yes, it ultimately has unless the companies publish it as a standard rate and let it go. They can do that if they want.

MR. HARVIE: All right, Mr. Miller.

A. H. Miller.

MR. COMMISSIONER LIPSETT: Would it be possible to get the exact position now?

MR. FRAWLEY: Yes, I will find out and will be able to tell you to-morrow.

A We have had advice, Mr. Commissioner, that they have published them as a temporary rate and that they will expire on October 30th.

MR. FRAWLEY: There is no doubt about that. It so states, but, as I say, it has been three times postponed now.

A Notwithstanding this, our basic price in the Province of Alberta is lower than that prevailing in the State of Montana, as at July 20, 1939; which is as follows: Calgary Net Tank Wagon 14.756¢, which is 15.50¢ less sales tax, as against the price at the four basic points in the State of Montana of 15.00¢ for an equivalent gallon, which prices are figured as follows:

CALGARY		MONTANA	
Net T.W.	15.500	Basic Price in Wine Gal.	18.50
Less Sales Tax	.744	Less Taxes	6.00
			12.50
		Add 1/5	2.50
Basic Price	14.756	Basic Price in terms of Imperial Gallon	15.00

I may interject and say that in the Montana map, as mentioned elsewhere, we have shown the posted tank waggon prices of the various grades of gasoline in wine gallon measure shown in black and also the conversion of these prices for comparative purposes into Imperial gallons shown in red. I would like to take the opportunity at this time, however, to remind the Commission that in making these conversions into Imperial gallons we have done so

A. H. Miller,

on a conservative basis, by merely adding 1/5 of the wine gallon posted price, which included the Federal and State taxes, to that price, in order to arrive at a comparable price for Imperial gallons. But if we had figured it on a strictly comparative basis, which would be to deduct the Federal and States taxes from the posted tank waggon price in wine gallons, and convert to Imperial gallons and then add the Canadian tax, that is the sales tax and Provincial tax, it would have resulted in a corresponding Imperial gallon price being approximately .55 cents higher than this shown on the Montana map. In other words, we did not wish to set that price structure up on that map on any other basis than a moderately conservative basis.

You will note that notwithstanding the greater Refinery facilities and centers in the State of Montana, the tank wagon prices are comparatively high when compared to those existing in the Province of Alberta.

In our former evidence we have submitted the necessary statistics and information which clearly indicate that the Petroleum Industry in the Province of Alberta is not securing a return commensurate with its investment, and we, therefore, believe that this Commission should consider the comparison of the basic price in the Province of Alberta compared to that in the State of Montana, believing it would be unreasonable to expect the Canadian Petroleum Industry in the Province of Alberta to be on an equal price basis to that of Montana.

The Commission Counsel has on several occasions maintained that they are not interested in the price to outside areas

in the Province of Alberta, but are only interested in the Basic Price at Calgary. Therefore, we maintain that as our base price is lower than that prevailing at the Basic Points in Montana, any additional cost to the consumer in the Province of Alberta is only that of freight, and as the freight rates are considerably higher than those existing in the State of Montana, this is a matter over which the Petroleum Industry has no control, any more than they have as to Crude supplies, which determine the Refinery Base Points.

MR. FRAWLEY: I suppose it is wholly unnecessary for me to make any comment that I maintain that we are interested in the Calgary price, it is for the very reason that Mr. Miller has stated, and I do not quite understand why he quotes me. The price structure in the Province of Alberta is Calgary plus freight, except from Claresholm south. That is why I say the Commission can usefully examine the Calgary price and everything else is freight. Did you take any more than that from my repeated statement to that effect. For simplicity's sake, we are only concerned with the Calgary base price and everything else is transportation cost. That is true, is it not?

A I just wanted to make that point clear. When I said our price is based on Calgary plus freight, you have said on several occasions when we have discussed other areas that you are not interested except in the Calgary base price. I am trying to make clear to the Commission that our base price in Alberta for an equivalent gallon to that in the State of Montana is lower than it is in Montana. And I think it is only reasonable to also point out the many advantages Montana had in the lower cost of operation, which I have enumerated here, and, therefore, I think it, comparing all our prices, indicates they are very reasonable

in the Province of Alberta, particularly in view of the fact that we are not making a return on our investment commensurate with the investment we have.

Q Now, I suppose we are not at cross-purposes at all. Am I not right in saying that to find out the fairness or otherwise of the Alberta price structure, one seeks to determine the fairness or otherwise of the Calgary price. That is the point, is it not?

A That is right.

Q And then everything else is freight. We are all agreed about that?

THE CHAIRMAN: Except the witness makes it a point that Montana is a highly competitive field and it is, therefore, to be assumed that the price level is as low as may be and that since we are lower than Montana, if anything it should be the work of this Commission to recommend an increase, and certainly not make a price to the consuming public lower than they are able to obtain in a highly competitive field next door to us. That is the point, Mr. Miller, I take it?

A That is right.

MR. FRAWLEY: Then the Commission's work could have been finished in about ten days. We would thoroughly examine the competitive situation in Montana and we would find their prices are higher than ours and, ergo, there is nothing to be done about the Alberta price. Very simple. But, as you know, we have made a most assiduous effort to analyze, break down and dissect everything that is in the Alberta price so that we on our own can say whether or not it is fair.

THE CHAIRMAN: I suppose Mr. Miller is quite alive to the fact that to say the Montana prices are so much and the Alberta prices are lower a fortiori, the Alberta price should go up without establishing that those competing in Montana did not reach the proper price level. They may be making enormous profits. It is open to argue that they are. The fact we were a little lower would not be the answer.

A There is one thing, Mr. Chairman----

Q You say it is a fair inference they are not doing so because experience teaches that competition drives down the price. That is as far as you go thus far?

A Well, it has been stated on one or two occasions by Commission Counsel that we did not have competition in Alberta and maybe if we had keener competition prices would be lower. I can only say that when you look at that map covering the State of Montana you note there that there are 33 refineries of all types and sizes, many of which are owned by independent operating companies. I do not think there is a State, possibly outside of Texas, that is any more competitive in the Union than the State of Montana. Yet notwithstanding all that competition in the area we cover of 1950 miles, over which we have secured these various prices, and in view of the posted price list of the Continental Oil Company, March 24th, 1939, it would indicate that these prices are being secured throughout that area notwithstanding all that keen independent type of competition from refineries that they have.

Q How do the Montana prices for crude compare. Have you considered that?

A Yes, I have them on the same date, Mr. Chairman. At least

A. H. Miller.

I should have. Well, dealing with the question of the crude prices, Mr. Chairman, on November 16th, 1937, the Kevin-Sunburst price was 90 cents.

Q MR. FRAWLEY: November 16th?

A November 16th, 1937, the Kevin-Sunburst price on crude was 90 cents a barrel.

Q And posted so?

A And posted so, yes.

Q You will find that in the "National Petroleum News"?

A And on October 11th, 1938, the Cutbank posted field price was $1.10. Now, those prices have not changed, according to the "National Petroleum News" and other records since that date.

THE CHAIRMAN: And the comparable figure in Alberta?

A Is $1.---what is your posted price to-day?

Q I am trying to get a comparable product. Just take your time and work it out.

MR. FRAWLEY: Exhibit "145". Mr. Watt is going to look it up.

Q MR. COMMISSIONER LIPSETT: While that is being worked out, I wonder if you could give us some idea of how many of these 33 refineries are refining any 3rd structure gas in Montana?

A I could get that for you, Mr. Commissioner.

Q Just to get an idea.

A Maybe you would like to see the refineries too. If you would, we will let you have a photographic album of all the refineries there.

Q Well, it was more to get an idea of the quality of product they were turning out.

A. H. Miller.

A I will let you have that, Sir.

MR. HARVIE: Your question was, the number of the 33 refineries in Montana that manufacture all grades of gasoline. Is that the information you would like?

MR. COMMISSIONER LIPSETT: It was just to see what the general view was of competition in "Q" grade and ethyl.

MR. FRAWLEY: Mr. Watt says he cannot work it out from there.

MR. WATT: There are no gravities given in the "National Petroleum News".

A Whilst those prices, as I said, have not changed, that is the posted price, our information is that Cutbank crude, particularly over the past twelve months, could have been purchased as low as 80 cents a barrel, and I believe in some cases less than that. Although there is a posted price of $1.10. We have no cases of that kind in the Turner Valley field. The posted price is maintained and it is paid in all cases. Now, I thought it might be interesting and it might be of some value to the Commission experts if we supplied you with a statement which covers the total gasoline sales in the State of Montana by refinery, by distributors and by jobbers and by towns, for the years 1937 and 1938. It might be of some value. You might be wanting to make comparisons between the sizes of some distributors and jobbers and the output of the various refineries, some time later, in which case there is one copy.

MR. HARVIE: There is just a compilation of facts and figures in connection with the Montana business that might be of extreme interest for reference purposes.

(DOCUMENT IN QUESTION IS NOW MARKED EXHIBIT "624".)

A. H. Miller.

THE CHAIRMAN: Exactly how do you describe that, Mr. Harvie?

MR. HARVIE: It is the gallonage handled by the various concerns.

A By all companies. All companies operating in Montana broken up for the years 1937 and also for 1938, with percentages and details of each company.

MR. FRAWLEY: What is the source of the information, the State of Montana?

A Yes, the State of Montana. That is the Government of Montana. From the Government of Montana. It is their statistics.

THE CHAIRMAN: Is there anything further you can conveniently start, or would you rather make a fresh start to-morrow. We will sit for another five minutes or so if there is anything you feel you can complete at all.

MR. FRAWLEY: As I look at the brief for the first time, Mr. Miller is now going to review the evidence put in this morning. Perhaps he can do that briefly. He is going to review Mr. Miller's evidence and Mr. Bostock's evidence.

A That is right.

Q Perhaps he could go over that quickly. Mr. Miller may have to stay over because I have received this material for the first time to-day and I may have to ask a few questions. But it might serve a purpose if you could do that quickly in a few minutes.

RE: IMPORTATIONS INTO ALBERTA
FROM THE STATE OF MONTANA.

We have already submitted evidence pointing out that gasoline produced in the State of Montana is being sold for export

into Alberta at prices considerably below those which are established for domestic consumption in the State of Montana.

We now wish to submit further evidence and confirmation by way of Statutory Declaration and actual invoices, that it is possible for any individual Canadian consumer to purchase in small quantities, drum lots, in the State of Montana, provided only, however, it is for export into Canada, at prices considerably below the established tank wagon price in the State of Montana for domestic consumption, and even below the established tank car price.

The evidence we are submitting covers purchases made by a local farmer who resides in the vicinity of Milk River, Alta., by the name of Hubert Miller.

This Declaration is filed as Exhibit No. 615, and consists of the following information:

(a) STATUTORY DECLARATION OF HUBERT MILLER: setting out the purchase of certain gasolines and distillates therein enumerated, and importation of same to the Dominion of Canada. To this declaration are attached as Exhibits:

(1) Invoice No. 2009, of the Hannah-Porter Co., dated July 12, 1939 at Shelby, Montana, covering the purchase of 165 gallons of Distillate at 6¢ per wine gallon, totalling $9.95.

(2) Invoice No. C.03495 of Cut Bank Refining Company, dated July 12, 1939, at Cutbank, Montana, covering 108 gallons of Gasoline at 6¢ per wine gallon, totalling $6.48, and 54 gallons of Distillate at 5½¢ per wine gallon, totalling $2.97, or a grand total of $9.45.

A. H. Miller.

(3) Invoice No. 02355 of the Treasure State Refining Company at Shelby, dated July 12th, covering 110 gallons of Gasoline at 5½¢ per wine gallon, or $6.05 and 110 gallons of Distillate at 5¢ per wine gallon, or $5.50, or a grand total of $11.55.

(4) Canadian Customs - Entry for Home Consumption, Form B.1-Amended: Showing a duty of $5.24 and Sales Tax of $4.18, or a total of $9.42 paid on the importation of the purchases mentioned in the above invoices.

(5) Canadian Customs "Form 1", being the "Oath or Affirmation of the Owner or his Agent or Attorney in Canada, prescribed to be made in cases where the goods have been actually purchased for importation into Canada." -

(6) Government of the Province of Alberta, Form F.O.14, being an Interim Fuel Oil Tax Receipt, No.6714, dated July 13th, 1939, acknowledging receipt of $39.71, being the Fuel Oil Tax on 683 gallons of Fuel Oil imported by Hubert Miller as therein and herein set out.

(7) Canadian Customs Certificate M A, dated July 12, 1939, covering a purchase from the Home Oil and Refining Company at Conrad, Montana, of 2 barrels or 110 gallons of Distillate, at a price of 6¢ per wine gallon or a total of $6.60, and 3 barrels or 165 gallons of gasoline at a price of 6¢ per wine gallon, or $9.90 being a total of $16.50.

The Customs Tariff Revised Statutes of Canada, 1937, Section 6, as amended provides in part as follows:

"Section 6. (1) In the case of articles exported to Canada of a class or kind made or produced in Canada,

if the export or actual selling price to an importer in Canada is less than the fair market value of the same article when sold for home consumption in the usual and ordinary course in the country whence exported to Canada at the time of its exportation to Canada, or is less than the fair market value or value for duty thereof as determined under the provisions of section thirty-six of the Customs Act or is less than the value for duty thereof as determined by the Minister under the provisions of paragraphs (a) and (e) of section forty-one of the Customs Act, or is less than the fair market value thereof as fixed under the provisions of section forty-three of the Customs Act, there shall, in addition to the duties otherwise established, be levied, collected and paid on such article, on its importation into Canada, a special or dumping duty, equal to the difference between the said selling price of the article for export and the said fair market value thereof or value for duty thereof; and such special or dumping duty shall be levied, collected and paid on such article although it is not otherwise dutiable.

"Section 6. (4) 'Export price' or 'selling price' in this section shall be held to mean and include the exporter's price for the goods, exclusive of all charges thereon after their shipment from the place whence exported directly to Canada."

We have submitted evidence showing the Posted Tank Wagon Prices of Grade #1, Ethyl, Grade #2, "Q", and Grade #3, White (Third Structure) in the State of Montana, which are the wholesale prices of the trade in that State, and that

the regular established tank car price is 2½¢ below the prevailing tank wagon price at destination.

Having now submitted documentary evidence by the original invoices covering the purchases of gasoline and distillate in the State of Montana, and the Statutory Declaration whereby in quantities of 10,000 gallons or more this individual could purchase at 1/2¢ per gallon lower than the lowest price at which he was able to purchase in drum lots, together with the terms of the Statute covering dumping regulations, we feel we have established a bona fide case, which should have the immediate attention of the proper authorities.

In connection with that, Mr. Chairman, I would like to submit a blank copy of an invoice.

Q What do you mean by that, a blank copy of an invoice?

MR. HARVIE: It is the Customs Declaration form, which shows what information is required to be given at the Border.

THE CHAIRMAN: Oh, yes.

A And I want to read paragraph 4.

THE CHAIRMAN: You want to put that in?

A Yes.

MR. FRAWLEY: There is one of these in already. Mr. Macleod put one in.

THE CHAIRMAN: Exactly the same, Mr. Macleod?

MR. MACLEOD: I presume so. It is the Statutory Declaration you take to show the price.

MR. FRAWLEY: And Mr. Hubert Miller put one in this morning.

MR. MACLEOD: Yes, I think that is the same thing, showing that the price does not exceed the home price.

THE CHAIRMAN: It has been made an Exhibit. Read the paragraph you want to draw attention to.

A That the said invoice also exhibits the fair market value of the said goods at the time and place of their direct exportation to Canada and as when sold at the same time and place in like quantity and condition for home consumptio in the principal markets of the country whence exported directly to Canada, and that the said fair market value----"

(Page 13,597 follows.)

Q MR. MACLEOD: Mr. Miller, the object of that, as you understand it, is to establish the fact whether a dumping duty is payable or not, that clause which you have just read?

A That is right.

Q And those are submitted with every importation, one of those submitted with every importation?

A That is right, that is my understanding.

Q If that declaration is made and accepted and not questioned by the Governmental Department, that establishes the fact that on that particular shipment no dumping duty is payable, that is the procedure, is it not?

THE CHAIRMAN: That establishes the fact.

MR. MACLEOD: That the conditions are such.

THE CHAIRMAN: That the Customs people have accepted the statement of the person coming before them.

MR. FRAWLEY: As being true.

MR. MACLEOD: That declaration being made and not questioned by the Customs Department, then it establishes the fact that on that particular shipment no dumping duty is payable or collectible.

THE CHAIRMAN: It establishes that fact undoubtedly to the satisfaction of the Customs people.

MR. FRAWLEY: And then it is all open to review.

THE CHAIRMAN: It does not establish it as a fact in all other forums.

MR. MACLEOD: Quite so but that is the fact, that that is the reason for that particular thing, to show that on that shipment no dumping duty is payable, subject of course to being questioned.

A I imagine that is the intent of it.

Q MR. FRAWLEY: And what you say, Mr. Miller, is this, be it at Coutts or at Ottawa, the Customs people are lax in their duty in not enforcing this, and you have said that to the Minister of Finance, have you, or the Minister of National Revenue?

A We have.

Q MR. MACLEOD: Mr. Miller, to be particular about this, each particular importation is covered by a declaration such as that and it is dealt with on that basis?

A Well I imagine every importer has to make that declaration when he clears at the Border.

Q And if you have made any such statement as Mr. Frawley reports you as making, I suppose you do not pretend to comment on every particular importation?

A Well so far as, if you, so far as the Federal Government is concerned, we have and still are submitting as much documentary evidence as we can to them to see if we can enlighten them on the situation in order that they will adjust the duty, the dumping duty rather, to be in line with the fair market price for these goods in the State of Montana.

Q MR. FRAWLEY: Perhaps, Mr. Miller, Mr. Macleod is referring to my second last comment. You say that the customs officers, whether at Coutts or at Ottawa,

are lax in their duties, they are not properly enforcing the Statutes which take care of dumping duty?

A I think the evidence shows that.

Q And Mr. Macleod says you are not saying that with respect to any particular invoices, you are saying that generally?

A Yes, generally.

Q Just one more question, and we may have to examine further on this in the morning, I see no reference made whatever in your case at all with respect to the importatations of the Texas Company, you do not mean that they are all committing violations, except the Texas Company, or do you?

A Well I think, Mr. Frawley , what I mean to convey is this, that the, if the Canadian Customs are permitting, regardless of who they are, shippers, to export into Alberta at a lower price, than the fair market value for that commodity in the same area to the domestic consumer, then they should adjust their rates of duty to offset the difference or the low price that they are purchasing and exporting for.

Q I know, but I simply say that I am struck by the fact that you seem to have made a careful investigation of the Montana situation, gone down there and made purchases, you have notes of transactions in Montana and I see nothing here with respect to the company which brings in I think most of the imported gasoline.

MR. HARVIE: The Texas Company has already submitted that evidence. It is all there and it is open to us to argue on that we think.

MR. FRAWLEY: I think the question is a fair one.

MR. HARVIE: Oh yes, I think so.

Q MR. FRAWLEY: I see nothing in your brief with respect to the Texas Company, is there anything significant about the fact that you have not mentioned them, whether it be for the purpose of confirming the evidence put in by the Texas Company or not, is there anything significant about the fact that you have left the Texas Company out of your investigation altogether?

A No, I do not think so, Mr. Frawley. I understand that the Texas Company are abiding by the arrangements which they had with Ottawa relative to importations.

Q Oh then-----

A And I just have taken that for granted but apparently these other shippers in Montana are not.

Q Then I just want to know what your submission is to the Commission?

THE CHAIRMAN: We will hear that in the morning and there may be other questions that we may want to ask Mr. Miller too.

MR. FRAWLEY: Quite so.

THE CHAIRMAN: We will now adjourn.

(The Inquiry was here adjourned to be resumed at 10:30 A.M. September 27th,1939.).

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